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Local Government of the United Kingdom

Outlines of Central Government,  
including the Judicial System of England

The Law of Housing and Planning

Social Administration

Public Assistance and Unemployment Assistance

County Councils : Powers and Duties

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OUTLINES OF  
LOCAL GOVERNMENT  
OF THE  
UNITED KINGDOM

BY

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## PREFACE TO THE FOURTEENTH EDITION

THE demand for the publication of the Fourteenth Edition has followed closely upon the publication of the Twelfth Edition of *The Local Government of the United Kingdom*. Consequently, the changes which have been incorporated in the latter work have also been adopted for this Edition.

In particular, Chapter II (History of Local Government) has been revised to meet the requirements of the revised syllabus for the London County Council Major Establishment Examination; Chapters XVI and XX have been amalgamated under the more appropriate title of "Public Undertakings." Chapter XVII (Police) has been extended to incorporate the important functions relative to Civil Defence, including Air Raid Precautions. A new Chapter XIX has been added on Restriction of Ribbon Development in view of the increasing importance of the subject. Consequent upon the change in the Constitution, it has been considered appropriate to omit Chapter XXXIV (The Irish Free State).

The remaining chapters have been thoroughly revised and brought up to date with the incorporation of the new legislation to the time of going to press, including the London Government Act, 1939.

I desire to record again my appreciation of the assistance given by my friends named in the Tenth and Twelfth Editions and to express my deep sense of loss at the passing of my friend, the late Mr. H. L. Hobday, one of the Assistant Clerks to the London County Council.

JOHN J. CLARKE.

3 TEMPLE GARDENS, :  
TEMPLE, E.C.4

and

27 LORD STREET, :  
LIVERPOOL, 2

April, 1939



## PREFACE TO THE TENTH EDITION

THE call for the Tenth Edition of this work is naturally a source of gratification to me, and is evidence of the popularity the book has achieved since it was first published with the co-operation of my friends, Mr. F. Heywood, of Sir Isaac Pitman & Sons, Ltd., and Mr. E. A. Bryant, of the Liverpool Booksellers Co., Ltd. It is interesting to record that the friends who contributed to the success of the earlier editions are all identified with this issue.

Considerable changes have been introduced into this edition which it is hoped will improve the work. A new chapter has been added dealing with "The Judicature," and the chapter on "The Voter and Local Government" has been replaced by one on "Registration and Elections." The chapter on "Town Planning" has been rewritten under the title of "Town and Country Planning," and incorporates the legislation of 1932. The chapter on "The Children Acts" has been re-cast under the title of "Children and Young Persons Acts," to include the provisions of the Act of that name passed last session.

In response to numerous requests, the chapter on "Ireland" has been replaced by two distinct chapters, that entitled "Northern Ireland," by Major G. A. Harris, D.S.O., Permanent Secretary, Ministry of Home Affairs, Northern Ireland; and that on the "Irish Free State," by Mr. E. P. McCarran, of the Department of Local Government and Public Health in the Irish Free State.

The text has been thoroughly revised throughout and the legislation for 1932 has been incorporated.

The establishment of the Diploma of Public Administration by the University of London, and the attention which this subject is receiving in the provincial Universities, would appear to suggest an increasing need for a work of this character.

Within the limits of a work of this kind it may now be said that the book covers the syllabus of the "British Constitution" (supplemented by *Outlines of Central Government*) as required by the University of London, and the "Public Administration"

paper of the Faculty of Insurance, the Incorporated Association of Rating and Valuation Officers, the National Association of Local Government Officers, the Institute of Municipal Treasurers and Accountants (Incorporated), and the Chartered Institute of Secretaries and the new Local Government Law paper of the revised Syllabus of the Law Society. It is hoped that this volume will prove of value in the work of social reconstruction which lies ahead; that it will be of benefit to the general reader; to students of Local Government and Citizenship in connection with the classes conducted by the Workers' Educational Association, Adult Schools of Social Science, and kindred bodies.

The chapter on "Valuation and Rating" has been brought up to date with the assistance of Mr. F. O. Lyster, F.S.I., the Deputy Valuer to the West Derby Assessment Area. The proofs of the chapters on "Scotland" have been read by Mr. P. A. Thomson, Town Clerk of the Royal Burgh of Ayr. Besides those mentioned, I have to record my obligation to my friends, Mr. Arthur Collins, F.S.A.A.; Dr. W. A. Robson, of the London School of Economics; Mr. H. T. Graham, Secretary for Publications in this University; Mr. H. L. Hobday, of the staff of the London County Council; and Mr. W. J. Parry, A.I.M.T.A., of the Statistical Department of the Liverpool City Treasurer, the last-named having read the proofs from the standpoint of examination students; while Mr. F. Dawson has again provided the Index.

I must also acknowledge the many valuable suggestions and hints which I have received from academic, local government, and other friends throughout the United Kingdom, and even further afield. Nor must I forget to record my thanks to the members of my classes for their helpful criticisms and discussions of the points put before them.

JOHN J. CLARKE.

# CONTENTS

	<small>PAGE</small>
PREFACE TO FOURTEENTH EDITION . . . . .	v
PREFACE TO TENTH EDITION . . . . .	vii

## SECTION I

### THE STATE IN RELATION TO LOCAL GOVERNMENT

#### CHAP.

I. Local Government, Functions, and Principles . . . . .	1
II. History of Local Government . . . . .	11
III. Reform in Local Government . . . . .	16
IV. Central Departments of the State . . . . .	20
V. The Judicature . . . . .	27
VI. Registration and Elections . . . . .	31

## SECTION II

### LOCAL AUTHORITIES IN ENGLAND AND WALES

VII. The Parish Council . . . . .	41
VIII. The District Council . . . . .	46
IX. The Borough Council . . . . .	51
X. The Justice of the Peace . . . . .	59
XI. The County Council . . . . .	62

## SECTION III

### PUBLIC HEALTH, PUBLIC UNDERTAKINGS, AND PUBLIC PROTECTION

XII. Public Health . . . . .	67
XIII. Housing . . . . .	80
XIV. Town and Country Planning . . . . .	107
XV. The Adoptive Acts and the Agricultural Acts . . . . .	116
XVI. Public Undertakings . . . . .	121
XVII. Police and Civil Defence . . . . .	127

## SECTION IV

### TRANSPORT

XVIII. Highways, Streets, and Bridges . . . . .	134
XIX. Restriction of Ribbon Development . . . . .	140
XX. Traffic Regulation . . . . .	145

## SECTION V

### EDUCATION AND MORAL IMPROVEMENT

XXI. Education . . . . .	155
XXII. Children and Young Persons Acts . . . . .	179

## CONTENTS

SECTION VI		PAGE
CHAP.	PUBLIC ASSISTANCE	
XXIII.	Public Assistance . . . . .	192
XXIV.	Mental Treatment . . . . .	200
XXV.	Unemployment . . . . .	205
SECTION VII		PAGE
LOCAL FINANCE		
XXVI.	Grants-in-Aid . . . . .	211
XXVII.	Borrowing Powers of Local Authorities . . . . .	224
XXVIII.	Valuation and Rating . . . . .	226
XXIX.	Financial Administration and Audit . . . . .	247
SECTION VIII		PAGE
SPECIAL LEGISLATION		
XXX.	London . . . . .	253
XXXI.	Scottish Local Authorities . . . . .	267
XXXII.	Scottish Local Government Finance . . . . .	275
XXXIII.	Northern Ireland . . . . .	281
XXXIV.	War Charities and Pensions . . . . .	287
XXXV.	Old Age Pensions . . . . .	291
XXXVI.	The Rent and Mortgage Interest (Restrictions) Acts .	302
XXXVII.	Suggestions to Members of Local Authorities .	308
XXXVIII.	Social Service . . . . .	310
APPENDIX		
A. Principal Local Authorities in England and Wales—		
	Classes and Numbers . . . . .	313
B. The Rating Relief Formula. . . . .		
	BIBLIOGRAPHY . . . . .	317
INDEX	. . . . .	355

# OUTLINES OF LOCAL GOVERNMENT OF THE UNITED KINGDOM

## SECTION I

### The State in Relation to Local Government

#### CHAPTER I

##### LOCAL GOVERNMENT, FUNCTIONS, AND PRINCIPLES

###### 1. INTRODUCTION

CENTRAL GOVERNMENT is the determination of policy and principle. Local Government is the application of those principles to the peculiarities of local fact.

LOCAL GOVERNMENT is that part of the government of a nation or state which deals mainly with such matters as concern the inhabitants of a particular district or place, and which it is thought desirable should be administered by local authorities, subordinate to the central government.

The local bodies so charged with the administration of these functions are, in the main, elective, and are referred to hereafter as Local Authorities.

###### 2. LOCAL AUTHORITIES

LOCAL AUTHORITY means, generally, any body of persons empowered to expend money derived from the proceeds of a local rate. In Acts of Parliament the term has a special meaning. Thus, the term as defined by the Local Government Superannuation Act, 1937, means "the council of a county, county borough, metropolitan borough or county district, the common council of the City of London, and any other local authority within the meaning of the Local Loans Act, 1875, and includes a joint committee established by a combination scheme, and any other joint committee appointed under an Act, or a statutory order or statutory scheme, if all the constituent authorities are such local authorities as aforesaid."

For purposes of the Local Government Act, 1933, it means the council of a county, county borough, county district, or rural parish. (Sec. 305.)

These authorities are principally—

- (a) Parish Meetings or Parish Councils.
- (b) Rural or Urban District Councils.
- (c) Borough Councils.
- (d) County Borough Councils.
- (e) County Councils.
- (f) *Ad hoc* and Joint Boards, e.g.—
  - (i) Drainage Boards.
  - (ii) Catchment Boards.
  - (iii) Burial Boards.
- (g) Justices of the Peace, who, in addition to their judicial functions, have certain duties appertaining to Local Government which are referred to in Chapter X.

Broadly speaking, each Local Authority, with the exception of the County Council and County Borough Council, administers a unit forming a component part of another authority's area.

*Joint Action in Local Government* has recently been introduced by certain regional local authorities, and may be effected under the provisions of—

- (i) Local Government Act, 1888, Sec. 14 (3) and 81.
- (ii) Public Libraries Acts, 1892, 1893, and 1919.
- (iii) Electricity (Supply) Act, 1919, Sec. 6.
- (iv) Ministry of Agriculture and Fisheries Act, 1919, Sec. 7 (6).
- (v) Education Act, 1921, Sec. 6.
- (vi) Diseases of Animals Acts, 1874 to 1935.
- (vii) Poor Law Act, 1930, Sec. 3.
- (viii) Land Drainage Act, 1930, Sec. 3.
- (ix) Town and Country Planning Act, 1932, Sec. 3.
- (x) Housing Act, 1936, Sec. 151.
- (xi) Public Health Act, 1936, Sec. 6.
- (xii) Local Government Act, 1933, Sec. 85.

### 3. FUNCTIONS OF LOCAL AUTHORITIES

It would be very difficult to produce a concise and comprehensive classification of the functions of Local Authorities, but the following table shows the powers and duties of a large provincial city possessing County Borough status, with the names of the appropriate committees and an indication of the percentage of the expenditure of the city incurred by each committee—

Five-fold functions—

1. Authority under Municipal Corporations Acts—	Per cent of expenditure
Finance	3.9
Estate (self-supporting) :	:
Police	6.8
	10.7

	<i>Brought forward</i>	—	10.7
<b>2. Authority under Public Health Acts, etc.—</b>			
Port Health and Hospitals . . . . .	14.7		
Highways and Bridges . . . . .	7.8		
Cleansing and Refuse Collection . . . . .	6.3		
Public Health—Miscellaneous . . . . .	2.6		
Sewers . . . . .	2.4		
Housing and Planning . . . . .	1.7		
Maternity and Child Welfare . . . . .	1.6		
Baths and Washhouses . . . . .	1.1		
	<u>38.2</u>		
<b>3. Adoptive Acts—</b>			
Street Lighting . . . . .	2.2		
Parks and Gardens . . . . .	1.8		
Libraries, Museums, Arts and Music . . . . .	1.6		
	<u>5.6</u>		
<b>4. Trading—</b>			
Markets—Transport—Electricity (self-supporting) . . . . .	—		
<b>5. Additional Functions—</b>			
Public Assistance . . . . .	23.0		
Education . . . . .	17.3		
Mental Hospitals and Mental Deficiency . . . . .	3.8		
Miscellaneous, including Air Raid Precautions . . . . .	1.4		
	<u>45.5</u>		
	<u>100.0</u>		

#### 4. CLASSIFICATION OF FUNCTIONS

Powers and duties of local authorities are difficult to classify, and it is admitted that any such attempt must be subject to criticism. The following is merely put forward as a suggestion with a few comments on powers and duties of local authorities within the sphere of each division—

- (1) Legislative.
- (2) Administrative.
- (3) Executive.
- (4) Provision of arrangements for the public safety.
- (5) Provision of institutions for social betterment.
- (6) Construction and maintenance of works of national benefit.
- (7) Management of quasi-commercial undertakings.
- (8) Administration of certain functions of a national character.
- (9) Laboratories for social experiments.
- (10) Judicial.
- (11) Financial.
- (12) Nationalization of certain local government services.

1. **LEGISLATIVE** (including Promotion of, and Opposition to, Bills in Parliament).

- (a) Provision must be made for the maintenance of a local

legislature with power to make by-laws, e.g. Local Government Act, 1933, Part XII; the Public Health Act, 1875, Sections 183 and 184; the Town Police Clauses Act, 1847. By-laws are a code of detailed instruction for the application locally of the general principles of the law.

(b) Power must be given to appoint Executive Officers, to provide equipment for and a system of elections in accordance with the Regulations of the Secretary of State (Home Office).

(c) Local authorities possess the power to sue and the liability to be sued in a corporate capacity in the Courts of Law. Their members and officers are protected by the Public Authorities Protection Act, 1893.

(d) Promotion of and Opposition to Bills in Parliament.

(i) The law on this subject is now contained in Part XIII of the Local Government Act, 1933, and applies to County, Borough and District Councils, but not to authorities in the Administrative County of London or to Parish Councils.

(ii) The provisions legalize the application of public funds to the promotion of, or opposition to, Bills other than those in competition with existing gas and water undertakings.

## 2. ADMINISTRATIVE.

The maintenance of works of public convenience and utility, within discretionary limits, e.g. streets and bridges, as well as lighting and cleansing thereof, together with the maintenance of sewers and sewage disposal works and the collection of household and trade refuse. Hospitals, institutions, sanatoria and maternity and child welfare centres may be included in this type of work, as well as the provision of houses.

## 3. EXECUTIVE.

The enforcement, through officials who are not allowed much discretion, of the provisions of imperative law, including the care of certain classes of the community, i.e. in the jurisdiction of the local authority, e.g. poor persons, patients in mental hospitals, mental defectives, ineptiates, and infectious, tubercular, and blind persons.

## 4. PROVISION OF ARRANGEMENTS FOR THE PUBLIC SAFETY.

This is effected by the maintenance of local courts of civil and criminal jurisdiction and a police force, arrangements for protection from fire by the inspection of buildings, the regulation of traffic and dangerous trades, air raid precautions, and the examination of weights and measures.

## 5. PROVISION OF INSTITUTIONS FOR SOCIAL BETTERMENT.

It is further incumbent on local authorities to provide for the establishment of institutions for the development of character,

such as an educational system, libraries, parks and gardens, museums, art galleries, baths and washhouses, and gymnasia.

#### 6. CONSTRUCTION AND MAINTENANCE OF WORKS OF NATIONAL BENEFIT.

The construction and maintenance of highways and bridges; the administration of such Acts as the Housing Acts, 1936 to 1938, the Town and Country Planning Act, 1932, and the Restriction of Ribbon Development Act, 1935, all tend to the national advantage.

#### 7. MANAGEMENT OF QUASI-COMMERCIAL UNDERTAKINGS.

The local authorities have for many years undertaken the management of quasi-commercial undertakings, such as markets, waterworks, gas-works, passenger transport, electricity supply, cemeteries, allotments, ferries, saving banks, and aerodromes.

#### 8. ADMINISTRATION OF CERTAIN FUNCTIONS OF A NATIONAL CHARACTER.

Certain administrative functions under the Acts relating to Old Age Pensions and National Health Insurance. In time of war, food and fuel are of a national character. There has also devolved on local authorities the collection of Road Fund Licence Duties.

#### 9. LABORATORIES FOR SOCIAL EXPERIMENTS.

The establishment by local authorities of schemes for social experiments has resulted in energetic authorities being enabled to anticipate national requirements. Thus, the experimental appointments of Medical Officers of Health, Nurses in Workhouses, District Nursing, and Maternity Clinics, have all resulted in the expansion into local government services throughout the country.

#### 10. JUDICIAL.

Certain local authorities maintain their own local Courts of Petty Sessions; Courts of Quarter Sessions have existed since 1360. There still survive, in certain boroughs, Local Courts of Record presided over by the Recorder or, in some instances, under special Act of Parliament a Presiding Judge is appointed for that purpose, e.g. the Liverpool Court of Passage.

#### 11. FINANCIAL.

For the purpose of carrying out their functions, outlined above, power is given to the local authorities to raise money by a system of rating under the Rating and Valuation Act, 1925. For works of a permanent character, loans repayable over a period of years may be raised under general or local Acts of Parliament.

For various reasons dealt with in Chapter XXVI the Exchequer makes certain grants in aid of the cost of local services.

## 12. NATIONALIZATION OF CERTAIN LOCAL GOVERNMENT SERVICES.

The State has created from time to time new functions of Local Government, and is still continuing to do so, e.g. Civil Defence Act, 1939. On the other hand there has been the reverse process, e.g. gaols having reverted to the control of the State; the Central Electricity Board has virtually nationalized electricity generation; assistance of the able-bodied unemployed under the Unemployment Act, 1934, is now the duty of the Unemployment Assistance Board; and the nationalization of Trunk Roads in 1936 extends the principle further.

## 5. PRINCIPLES OF LOCAL GOVERNMENT

(1) *There is no strict line of demarcation* between central and local government; the limitations of each being effected by compromise.

The exact relations between central and local government are often in conflict between the out-and-out "local self-government" school and the "centralizers," the latter wishing to smooth out local inequalities by central bureaucratic control and an extension of local taxation grants centrally administered.

(2) *Local authorities have no powers* except such as are defined by statute.

The specific performance of these powers is enforced. Thus the Local Authorities (Financial Provisions) Act, 1921, provides power to appoint a receiver where a metropolitan borough council fails to meet a precept.

(3) *Co-ordination and centralization* as follows—

(a) Local Authorities derive their powers from Parliament. Exceptional powers must be authorized by special Local Acts, e.g. municipal savings banks.

A Select Committee on Private Bill Procedure (Local Legislation Clauses) issued their Report in 1937 (H.O.C. 112).

(b) The Supreme Court of Judicature. Local Authorities and their officers are amenable to the law similarly to other bodies and persons. (See Chapter V.)

(c) The Central Administration under the Central Departments of the State, as described in Chapter IV.

(4) *Limitation* of the powers of rating for specific purposes. These limitations are relaxed in certain instances, particularly to encourage work of social betterment.

(5) *Protection* is afforded to the citizen from autocratic authority and the member and official is safeguarded from unreasonable action in the discharge of his duties by the Public Authorities Protection Act, 1893.

(6) *Variety in Local Government* enables the local community

to shape its affairs by undertaking experiments which may afterwards be adopted by the central authority, and extended to the whole country.

#### 6. CENTRAL CONTROL OF LOCAL GOVERNMENT

*The control* exercised over any local authority, either by the central departments or by some other local authority, is in inverse ratio to the powers given.

*Central control* is exercised by means of—

- (1) Enforcement of minimum standards by Inspections, e.g. Police and their Establishments.
- (2) Inquiries relating to Borrowing, Alteration of Boundaries, Complaints of Administration, etc.
- (3) Collection and Publication of Information, e.g. Statistics; Financial; Sanitary; Housing; Public Assistance; Education; Judicial; Mental Treatment.
- (4) Control of Finance by Audit of Accounts as described in Chapter XXIX.
- (5) Prescription of duties and their enforcement.
- (6) Advice respecting new powers and duties given by the Departments by means of circulars.
- (7) Statutory Rules, Orders, and Regulations.
- (8) Provisional and Special Orders issued under enactments.
- (9) Grants in aid necessitating a minimum standard of service.
- (10) Appointments—Approval of appointments (e.g. Senior Public Assistance Officers); and, in certain instances, consent to dismissals.
- (11) The approval of by-laws by the appropriate Central Department, e.g. Secretary of State or Minister of Health.
- (12) Action in Default as explained in Par. 10, *post*.

#### 7. COMMITTEES

(1) *Committees* are becoming increasingly important and committee work constitutes the larger part of the duty of the local administrators. Certain committees are statutory, e.g. the Finance Committee of the County Council. Some committees are Joint Committees, e.g. a Joint Vagrancy Committee, consisting of members elected by two or more local authorities.

(2) *Co-optation* is now general under the Local Government Act, 1933. The principle of co-optation seems to be influenced by the desire to secure services from three sources which may or may not be already represented by elected members, *viz.*—

- (a) the expert, as in the case of the Public Assistance Committee;
- (b) the vocational interest, as in the case of teachers on Education Committee; and

(c) the consuming interest of persons directly affected, as in the case of Allotments Committee.

Co-opted members have the same right as to voting as elected members; but are not members of the Council.

(3) *Federation of Committees* is a modern feature as provided by the Education Act, 1921.

#### 8. RIGHTS OF ELECTORS

“Persons interested” may inspect the accounts subject to district audit seven days prior to and during audit, and make copies and extracts therefrom.

Electors may, at all reasonable times, inspect minutes, orders for payment of money, abstract of accounts, report of auditors, freemen’s roll, and make a copy of or extracts therefrom.

Accounts and books subject to district audit must be open for inspection for seven days prior to audit by interested persons—electors are obviously included in this provision.

Electors may attend, or be represented at, the audit and make objections.

No member of the public, not even an elector, has any statutory right to attend a meeting of a local authority or any committee thereof. (*Tenby v. Mason*, 1908.)

By the *Local Authorities (Admission of the Press to Meetings) Act*, 1908, representatives of the Press have a right to be present at the meetings of every local authority, unless they are temporarily excluded by resolution of such authority. This does not include committees, except a joint committee or the education committee.

#### 9. NEW ASPECTS

Within recent years there have been tendencies at work which have resulted in certain modifications and adjustment of the foregoing principles. These new factors may be summarized as follows—

(1) *The Principle of Proportional Representation* on the system of the Single Transferable Vote has been advocated for the election of all local authorities.

(2) *Women in Local Government*. The work described in the following pages is available for women as well as for men. Never before have women had such excellent opportunities to take an active part in the work of local government administration. Women, married or single, are eligible for election to all local authorities. In particular co-optation of women is now compulsory on the Maternity and Child Welfare Committee under the Public Health Act, 1936.

(3) *Advisory Committees* have become of increasing importance

and constitute a valuable liaison between the Central Departments, local authorities and the public. These are of two classes—

- (a) Statutory, e.g.—
  - (i) Housing Advisory Committees, under the Housing Act, 1936.
  - (ii) Town Planning Advisory Committee, under the Town and Country Planning Act, 1932.
  - (iii) Transport Advisory Council.
- (b) Non-statutory, e.g.—
  - (i) Central Water Advisory Committee.
  - (ii) Mental Health Services of the Board of Control.
  - (iii) Welfare of the Blind.

#### 10. DEFAULT OF LOCAL AUTHORITIES

(1) Local Government Act, 1929, provides for action where it appears to the Minister of Health that the council of any district have made default in discharging certain functions relating to public health. (Sec. 57.)

(2) Power is given to the Minister to reduce the Grant under Part VI of this Act to any council who default under the circumstances outlined in Sec. 104.

#### 11. LOCAL GOVERNMENT SERVICE

(1) The trend of legislation is in the direction of adding to the burdens thrown upon local government officers. This necessitates a consideration of the questions of Recruitment and Training.

(2) *Recruitment.* In accordance with the recommendation in the Third and Final Report of the Royal Commission on Local Government, 1929, a *Recruitment* Committee was appointed in September, 1930, to consider the question of Recruitment and Training for the Local Government Service, and issued its Report in January, 1934, which is dealt with in *Local Government of the United Kingdom* (Twelfth Edition).

(3) *Training.* In this connexion the efforts of the Institute of Public Administration and the National Association of Local Government Officers with regard to the education of officers deserve the whole-hearted support of all who wish to see improvement in the service. Such organizations as the Institute of Municipal Treasurers and Accountants, the Institute of the Institution of Municipal and County Engineers, the Incorporated Association of Rating and Valuation Officers, the Royal Sanitary Institute, the Surveyors' Institution, and the Poor Law Examinations Board, with their systems of examination, make for efficient administration.

(4) *An Advisory Committee* to the Ministry of Health was appointed in 1938 to deal with questions of recruitment and training.

(5) *The Local Government and other Officers' Superannuation Act, 1922*, is repealed by the Local Government Superannuation Act, 1937.

A Departmental Committee reported in January, 1928, in favour of the Act of 1922 being made compulsory on all local authorities, and of smaller authorities being required to combine therefor or being included in county schemes.

(6) *The Local Government Superannuation Act, 1937*, provides that as from the appointed day, viz. 1st April, 1939, a Superannuation Fund must be maintained by the following bodies—

(a) the council of every county, county borough, and metropolitan borough;

(b) the council of every county district having on the 1st October, 1938, one hundred contributory employees or more;

(c) every joint committee established by a combination scheme under Sec. 5 (1) and (2) of the Act of 1922 or Sec. 2 of this Act.

(d) every other local authority as respects which the Act of 1922 was in force immediately before the appointed day.

Certain local authorities may be exempted.

Regulations have been issued by the Ministry of Health.

## 12. CONCLUSION

While, therefore, the government of the country may excite the interest of the majority of the people to a greater extent than does local government, the reason for it is hard to explain. It is, after all, the local government of the country which is the basis of all our principles of freedom and justice. From it has developed the Mother of Parliaments, the pride of our Empire, and the example to other nations and states. No system of local government can be complete which does not secure the whole-hearted support of each individual citizen. No effort in this direction is capable of success which does not visualize in thought and in act that "To make some nook of God's Creation a little fruitfuller, better, more worthy of God; to make some human hearts a little wiser, manfuller, happier—more blessed, less accursed! It is work for a God."

## CHAPTER II

### HISTORY OF LOCAL GOVERNMENT

THIS chapter contains an outline of the corresponding chapter in *Local Government of the United Kingdom*, Twelfth Edition. It is not intended to be exhaustive, and the reader is referred to the larger work for greater detail.

#### (A) LOCAL GOVERNMENT BEFORE THE INDUSTRIAL REVOLUTION

##### I. THE SAXON SETTLEMENTS.

(1) When the Saxon conquerors of Britain carved out the boundaries of our modern shires they were solving, in their fashion, the future of local government in England.

(2) Shire, hundred, and township government went on developing under Saxon rule until the progress of political events demanded strong central government.

(3) The Norman Conquest marks very strongly the date of this surrender.

##### II. THE FRANKPLEDGE SYSTEM.

(1) The Frankpledge system was, under the Saxon Constitution, an association of ten men who were to be standing securities.

(2) The local and national affairs were not relegated to a favoured few but were settled in the councils of the people in their several moots or meetings, e.g.—

(a) Village Moot	} having its modern equiva- lent in the	(a) Parish Council.
(b) Folk Moot		(b) District Council.
(c) Shireage Moot		(c) County Council.
(d) Witenagemot		(d) Privy Council.

From the military organizations sprang the civil institutions presided over by the *Ealdorman*.

##### III. NORMAN CONQUEST.

(1) William the Norman gave to these Saxon institutions charters, and taught them to believe that the Sovereign was the source of all their legal authority.

(2) The link which joined the Saxon and Norman regime was the Sheriff.

#### IV. THE SHERIFF.

- (1) The precursor of the sheriff was the King's Reeve—a type of official whose administrative rank was inferior to the alderman.
- (2) Note the rise of the Sheriff—
  - (a) Under the Normans.
  - (b) The Golden Age under Henry I.
  - (c) The Inquest of Sheriffs in 1170.
  - (d) Increasing duties in the thirteenth century.
  - (e) Obligations under Common Law.
  - (f) The Fount of Local Government.
- (3) Declining status after the fourteenth century.
- (4) The Mayor's Court of London.

#### V. THE PARISH.

The development from the Saxon tun to the ecclesiastical Parish, and the Vestry Meeting; and its survival in Norman times.

#### VI. THE HUNDRED.

- (1) In the early history of local government the place of the hundred was immediately above the township.
- (2) The oldest aspect of the hundred is military, and this has lasted down to our own day.
- (3) As a civil and criminal court of justice its judicial capacity was in the early times very extensive.

#### VII. THE POLICE SYSTEM.

- (1) Our police system may be traced to the early Saxon period when the responsibility of "Keeping the King's Peace" was placed upon the inhabitants of every locality.
- (2) The system of "tythings," which became later the "Frank-pledge" system referred to earlier.
- (3) The development in the tenth century of the hundred.

#### VIII. JUSTICE OF THE PEACE.

- (1) The Statute of Winchester, 1285, placing on a permanent basis the earlier procedure to preserve the peace.
- (2) The Constable, from the Saxon words *Cuninge* or *Kuninge*, which signifies the stability or stay of the King in maintaining peace; or the Latin *Comes Stabuli*, Equerry or Master of the Horse.
- (3) The City of London Police were different—
  - (a) The Saxon "Peace Guilds."
  - (b) The *Statute Civitatis London*, simultaneous with the Statute of Winchester, 1285.
  - (c) Watchmen or bellmen instituted in 1662, developed under Act, 1737.

(d) The Force remodelled in 1832, 1838, and, by the City of London Police Act, 1839.

(4) Outside the City of London—

(a) Endeavours were made to meet the demands for preventing crime by appointing constables to act under the magistrates.

(b) Town Watchmen, followed by the Metropolitan Police Act, 1829, under the control of the Home Secretary.

## IX. THE POOR LAWS.

(1) Dissolution of the Monasteries.

(2) Poor Relief Act, 1601.

## X. THE INDUSTRIAL REVOLUTION AND SANITATION.

(1) Up to the dawn of the eighteenth century, the development of local government was slow and mainly poor relief.

(2) The Industrial Revolution created the necessity for increased activity in the sphere of local government.

(3) As the principle of *laissez faire* had become the fetish of the day, little was done, and the evil conditions were exaggerated.

### (B) NINETEENTH CENTURY LOCAL GOVERNMENT

(i) STATUTORY BODIES CREATED BY LOCAL ACT, e.g. Commissioners for Paving, Lighting, Watching, and Cleaning.

The problems of the nineteenth century were met by adopting the *ad hoc* system, viz. creating a new authority each time.

(a) Town Councils and Vestries.

(b) Boards of Guardians.

(c) Commissioners of Sewers.

(d) Improvement Commissioners.

(e) Lighting Inspectors.

(f) Highway Boards.

(g) Local Boards of Health.

(h) Burial Boards.

(j) School Boards, etc.

(ii) THE REFORM OF MUNICIPAL CORPORATIONS.

(a) *Early English Towns*, as in the Roman cities of London, York, Chester, etc., and the primitive settlements of the Stratfords or the shrines, as at Canterbury.

(b) *The Craft Guilds*.

Through which the serf eventually passed to emancipation.

(c) *The Reform of 1835*.

The Royal Commissioners, in their Report of 1835, state: "It may be safely asserted that the body however named which was originally intended to share in the rights which the early charters conferred, embraced the great mass of the householders

or inhabitants. By degrees, exclusive qualifications were insisted on with increasing strictness and with few exceptions as the privileges to which these exclusive bodies laid claim rose in importance."

(d) *The Municipal Corporations Act, 1835*, was followed by numerous amendments and finally consolidated in the Municipal Corporations Act, 1882, largely superseded by the Local Government Act, 1933.

(e) *London.*

- (a) The City.
- (b) The Vestries.
- (c) The Wards.

(iii) **THE REFORM OF THE POOR LAW.**

(a) The Poor Law Board possessed a number of men with much experience in dealing with Vestries and Boards of Guardians, but there was no co-ordination.

(b) The Local Government Board, 1871, was constituted as the result of a Royal Commission appointed in 1869.

(c) The Vaccination Act, 1871, strengthened the powers conferred by the Act of 1869.

(iv) **THE STRUCTURE AND FUNCTIONS OF LOCAL AUTHORITIES.**

(a) *The Local Boards of Health.*

The Public Health Act, 1848, constituted the General Board of Health and provided for the establishment of Local Boards of Health in certain areas.

The Public Health Act, 1872, constituted the Local Boards as the urban sanitary authority, and the Boards of Guardians became the rural sanitary authority.

The Public Health Act, 1875, was a consolidating Act, certain sections of which still remain in operation.

The Local Government Act, 1894, provided for the newly constituted District Councils to replace the Local Boards.

(b) *London.*

(1) The name "London" derived probably from the Celtic.

(2) The City ruled by the Mayor, Aldermen, and Common Council (see Chapter XXX) for the 26 Wards.

(c) *The London Vestries* were replaced by the Metropolitan Borough Councils in accordance with the London Government Act, 1899. (See Chapter XXX.)

(d) *The Metropolitan Board of Works* was replaced by the London County Council under the Local Government Act, 1888. (See Chapter XXX.)

(e) *The Metropolitan Asylums Board* lapsed and its powers

and duties were transferred to the London County Council under the Local Government Act, 1929. (See Chapter XXX.)

(f) *Metropolitan Water Board.*

(i) London was built around a series of wells and rivulets, with the Thames as a highway, and also as a source of supply.

(ii) In 1236 water was brought by leaden pipes from the Tyburn Springs into the City.

(iii) The New River project, 1606, put forward by Hugh Myddelton.

(iv) From that date other companies were formed, until the eight companies were merged in the Metropolitan Water Board in 1904. (See Chapter XXX.)

(v) **EDUCATION.**

(a) Until 1833 education was in the hands of the Church, supplemented by voluntary bodies such as the National Society and the British and Foreign Schools Society.

(b) In 1856 the office of Vice-President of the Council for Education was established, when a Minister became responsible to Parliament for the administration of the Grants.

(c) The Education Act, 1870, supplemented the voluntary effort and provided for the establishment of School Boards where voluntary effort was inadequate.

(d) The Education Act, 1876, established School Attendance Committees for all areas when there was no School Board.

(e) The Education Act, 1902, abolished the School Boards and School Attendance Committees and constituted Local Education Authorities. (See Chapter XXI.)

(vi) **REFORM AS TO CONSTITUTION AND POWERS OF AUTHORITIES.**

(a) The Municipal Corporations Act, 1882, consolidated the legislation affecting the boroughs.

(b) The Local Government Act, 1888, constituted the County Councils, and so the greater part of the administrative business hitherto transacted by Justices passed to an elective body.

(c) Local Government Act, 1894—Urban and rural district councils and parish councils. (See Chapters VII and VIII.)

(d) London Government Act, 1899. (See Chapter XXX.)

(vii) **ACTS RELATING TO THE HOUSING OF THE WORKING CLASSES.**

See Chapter XIII. \*

**(C) TWENTIETH CENTURY LOCAL GOVERNMENT**

This is dealt with in the pages which follow.

## CHAPTER III

### REFORM IN LOCAL GOVERNMENT

#### 1. INTRODUCTION.

(a) The movement for reform may be said to date from the Report of the Royal Commission on the Poor Laws and the Relief of Distress, 1909.

(b) The Royal Commission on Local Government appointed under the Chairmanship of Lord Onslow in 1923.

(i) *First Report* in 1925 resulted in passing of the Local Government (County Boroughs and Adjustments) Act, 1926.

(ii) *Second Report* in 1928, the principal recommendations of which are carried out by the Local Government Act, 1929, Part IV.

(c) The Rating and Valuation Act, 1925, was followed by—

(i) The Chancellor of the Exchequer's Budget in April, 1928; which provided the Funds by the Petrol Tax;

(ii) The Rating and Valuation (Apportionment) Act, 1928;

(iii) The Rating and Valuation Act, 1928;

(iv) The Local Government Act, 1929;

(v) The Agricultural Rates Act, 1929.

(d) *Third and Final Report* of the Royal Commission issued in 1929, which resulted in—

(i) The appointment in 1930 of Departmental Committee on Recruitment and Training of Local Government Officers (see page 9); and

(ii) Report of the Committee issued in January, 1934.

#### 2. FIVE DEFECTS WHICH REQUIRED ADJUSTMENT.

(1) Boards of Guardians' functions and areas overlapped those of other local authorities.

(2) Cost of roads had considerably increased.

(3) Rigidity of local government areas.

(4) Burden of rates on productive industry.

(5) Relations between national and local finance were inequitable.

#### 3. SEVEN PROPOSALS FOR REFORM.

(i) Abolition of Boards of Guardians.

(ii) Repeal of Unemployed Workmen Act, 1905.

(iii) Separation of Registration of Births; Deaths and Marriages from the Poor Law.

(iv) Amendment of Highways and Town Planning Powers.

(v) Enlargement of local government areas.

(vi) Rating Relief Scheme.

(vii) Substitution of Block Grants for certain percentage Grants.

### Local Government Act, 1929

This Act as stated in the title was "An Act—

- (a) to Amend the law relating to the
  - (i) administration of poor relief,
  - (ii) registration of births, deaths, and marriages,
  - (iii) highways, town planning, and
  - (iv) local government;
- (b) to extend the application of the Rating and Valuation (Apportionment) Act, 1928, to hereditaments in which no persons are employed;
- (c) to grant complete or partial relief from rates in the case of hereditaments to which the Act applies;
- (d) to discontinue certain grants from the Exchequer; and
- (e) to provide other grants in lieu thereof; and
- (f) for other purposes consequential on the matters aforesaid."

The Act is in eight parts, and 138 Sections, viz.—

- Part I. Poor Law.
- Part II. Registration of Births, Deaths and Marriages.
- Part III. Roads and Town Planning.
- Part IV. Miscellaneous Local Government Provisions.
- Part V. Rating and Valuation.
- Part VI. Exchequer Grants and other Financial Provisions.
- Part VII. Property, Liabilities and Officers.
- Part VIII. General.

There are twelve Schedules, viz.—

- I. The modification of certain Acts.
- II. Discontinued Grants.
- III. Provisions as to certain payments out of Local Taxation Accounts.
- IV. Rules for the calculation of General Exchequer Grants.
- V. Rules for ascertaining gains and losses of areas.
- VI. Adjustments and apportionments of Poor Law Properties and Liabilities.
- VII. Provisions as to the Sale, etc., of Parish Property.
- VIII. Provision as to the determination and payment of Compensation to Officers.
- IX. Transitory and Temporary Provisions.
- X. Adaptation of Enactments.
- XI. Provision for securing allowance of Rebates to Selected Traffic corresponding to Rate-relief of certain Companies.
- XII. Enactments Repealed.

These Parts are treated in the appropriate chapters which

follow with the exception of Part IV, which may be more suitably dealt with at this point.

#### Part IV. Miscellaneous Local Government Provisions

This Part is based mainly on the recommendations in the Second Report of the Royal Commission on Local Government published in October, 1928.

It made provision for the systematic adjustment and reorganization of local government areas—

(1) Section 46 required the county council to carry out a survey of the county, and make proposals before 1st April, 1932, for alterations of boundaries of districts, and of non-county boroughs and of county boroughs if the councils of the boroughs agreed.

(2) The local authorities (other than parish councils) in the county had to be consulted, and the councils of the county boroughs adjoining the county had the right to submit their views to the Minister on the proposals.

(3) If any objection was made by a local authority affected (including a parish council) the proposals could not be confirmed until a local inquiry had been held.

(4) Section 47 (now Local Government Act, 1933, Sec. 146) provided that the county council might subsequently, if they thought it desirable, or must, if the Minister so required, undertake and report upon similar reviews. The interval between any two reviews was in no case to be less than ten years.

(5) Section 50 provided for a review of the county electoral divisions after the completion of the review of the administrative areas.

(6) Section 52 (now Local Government Act, 1933, Sec. 294) enabled county councils to pay the travelling expenses of their members in the discharge of their duties, provided they are in discharge of functions performed for the whole county.

(7) The Local Government (Members' Travelling Expenses) Act, 1937, has extended this to permit payment to members of Assessment Committees, Guardians Committees, and Joint Committees.

#### THE THIRD AND FINAL REPORT OF THE ROYAL COMMISSION ON LOCAL GOVERNMENT, 1929

The Third and Final Report is divided into three parts, as follows—

##### *Part I. Functions of Local Authorities.*

(a) Distribution of Certain Functions between Local Authorities.

(b) Other Questions affecting Power and Duties of Local Authorities.

##### *Part II. Matters Relating to the Constitution of Local Government Bodies.*

*Part III. Local Government Officers.*

The various subjects dealt with will be considered in the appropriate chapters which follow, but are more fully dealt with in *Local Government of the United Kingdom* (Twelfth Edition).

It is sufficient to mention here the subjects which have no place in the succeeding chapters.

*Part I. Functions of Local Government Authorities.*

- (a) Co-operation between Local Authorities.
- (b) Establishment of Insurance Funds by Local Authorities.

*Part II. Matters Relating to the Constitution of Local Authorities.*

- (a) Consolidation of Statutes.

See chapter on Public Health relative to the work of the Consolidation Committee.

- (b) Disqualification of Members of Local Authorities.
- (c) Numbers of Committees of Local Authorities.
- (d) Co-optation on Committees of Local Authorities.

*Part III. Local Government Officers.*

- (i) Recruitment.

See page 9 relative to Departmental Committee.

- (ii) Promotion and Transfer.
- (iii) Office Organization and position of Clerk to the Local Authorities.

## THE LOCAL GOVERNMENT ACT, 1933

The objects of this Act are—

- (1) To put into operation the recommendation of the Departmental Committee on local government legislation.
- (2) To consolidate with amendments the enactments from 1530 onwards relating to the constitution, officers, areas, expenses, certain functions and by-laws of local authorities.

- (3) To simplify the machinery of local government administration.

The provisions of this Act are incorporated in the text which follows.

## CHAPTER IV

### CENTRAL DEPARTMENTS OF THE STATE

THE following are the principal Departments controlling local government. Further particulars are contained in *Outlines of Central Government* (Ninth Edition).

1. THE TREASURY. The powers and duties of Lord High Treasurer are executed by Commissioners consisting of the First Lord of the Treasury, the Chancellor of the Exchequer, and three Junior Lords Commissioners. The following Departments are associated with the Treasury in local government duties—

(a) *The Public Works Loan Board* was created in 1817 for the purpose of advancing money to local authorities for public works. It also makes loans to "public utility societies" and to individual landlords for the permanent improvement of estates. Loans are usually repaid on the annuity system of principal and interest, over periods varying from twenty to eighty years.

(b) *The Development Commission* was established by the Development and Road Improvement Fund Acts, 1909 and 1910, to advise the Treasury in the administration of a national fund for the development of agriculture, fisheries, and other analogous economic resources of the United Kingdom.

(c) *Office of Works and Public Buildings*. The Commissioners were appointed in 1832 for the purpose of discharging certain duties previously performed by the Office of Woods and Forests. They are responsible for the care of Ancient Monuments of national importance which demand preservation for the nation.

2. THE PRIVY COUNCIL is a body of nominated persons whose names are approved by the sovereign. It plays a most important part in the administration of local government.

(a) It recommends the Crown to grant Charters of Incorporation for the creation of new Boroughs.

(b) Orders in Council bring into operation many new statutes, and the transfer of departmental powers.

(c) Committees are constituted to deal with particular functions, e.g. the Judicial Committee and the Board of Trade.

(d) A Committee for the Organization and Development of Scientific and Industrial Research was established in 1915.

3. THE BOARD OF TRADE is the oldest of the Committees of the Privy Council. It was first established in 1622. The present Department owes its origin to an Order in Council of 1786. It

has been reconstituted from time to time, and as from 1918 was divided into two main divisions, viz.—

(1) *The Department of Commerce and Industry*, which is concerned mainly with development of trade, is divided into the departments of Commercial Relations and Treaties; Mines; Overseas Trade (Development and Intelligence) a joint Department with the Foreign Office; Industries and Manufactures; Standards; Industrial Property (including Patent Office); Power and Economics; Statistics; Gas Administration; Intelligence and Parliamentary.

(2) *The Department of Public Services Administration* is primarily engaged in statutory and administrative functions of a permanent nature which are performed by the Mercantile Marine, Companies, Bankruptcy, and certain temporary Departments.

There are in addition three general departments, viz., the Solicitor's, Finance and Establishment.

4. THE BOARD OF EDUCATION was established in its present form in 1899. It is responsible for elementary, secondary, technological, and higher education; educational trusts, and the medical inspection of school children. (See also Ministry of Health.)

5. THE HOME OFFICE was created in 1782. The Home Secretary's duties relating to Local Government include—

(1) Preservation of the King's Peace through the exercise of duties by magistrates, coroners and police.

(2) Relations with local authorities in approval of by-laws, other than those relating to nuisances, education, and transport.

(3) Issue of certificates of naturalization, and prevention of cruelty to children and animals.

(4) Control of prisons and Borstal institutions.

(5) Inspection of institutions, including reformatory and industrial schools (now known as Approved Schools).

(6) Protection of citizens, by administration of Factories Act, Mines Regulation Acts, and Shops Acts.

(7) Appellate jurisdiction, e.g. storage of petroleum.

(8) Miscellaneous, including advising the Sovereign in the exercise of the prerogative of mercy.

(9) Territorial functions with regard to Northern Ireland, the Channel Islands, and the Isle of Man.

(10) Powers and duties respecting Registration and Elections transferred from the Ministry of Health by Order in 1921.

(11) Air Raid precautions are dealt with in Chapter XVII.

6. THE MINISTRY OF HEALTH was established by the Ministry of Health Act, 1919, the object of which was to consolidate in one department and under one Minister—

(a) All the powers and duties of the Local Government Board.

(b) All the powers and duties of the Insurance Commissioners and the Welsh Insurance Commissioners.

(c) All the powers of the Board of Education with respect to (i) the health of expectant and nursing mothers; (ii) the health of children who have not attained the age of five years and are not in attendance at schools recognized by the Board of Education; and (iii) the medical inspection and treatment of children and young persons.

(d) All the powers of the Privy Council and the Lord President of the Council under the Midwives Acts, 1902 and 1918.

(e) Such powers of supervising the administration of Part I of the Children Act, 1908 (which related to infant life protection), as had heretofore been exercised by the Secretary of State.

The Act also made provision for bringing under the control of the Ministry of Health at future dates—

(f) the care of sick soldiers (now a function of the Ministry of Pensions); and

(g) the control of lunacy and mental deficiency, which was transferred by Order in Council dated 17th May, 1920;

(h) any powers and duties of any Government Department which appear to relate to matters affecting or incidental to the health of the people.

(i) By Orders in Council dated July, 1920, provision was made for the transfer of certain powers, relating to gas supply, from the Ministry of Health to the Board of Trade, and for the transfer from the Board of Trade to the Ministry of Health of all the powers and duties under the Gas and Water Works Facilities Acts, 1870 and 1873, in relation to water undertakings.

(ii) By Order in Council dated 1921 the powers and duties of the Minister of Health as successor to the Local Government Board under the Representation of the People Act, 1918, were transferred in 1921 to the Home Office.

Divisions of the Ministry are given in *Local Government of the United Kingdom*. (Pitman.)

*Four Consultative Councils* were established on 14th July, 1919, from among persons of experience in the various spheres of activity indicated. The respective duties of these Councils are to give advice and assistance on matters relating to—

- (1) Medical and allied services;
- (2) National Health Insurance;
- (3) Local health administration;
- (4) General health questions.

The Ministry possesses appellate jurisdiction, as e.g. under the Private Street Works Act, 1892; and the Town and Country Planning Act, 1932.

The following departments are also under the Ministry of Health—

(1) *The General Register Office* is responsible for the registration of births, deaths and marriages in England and Wales, and the preparation of vital statistics. Each County and County Borough is divided into districts, each with a Registrar formerly appointed by the Board of Guardians. Over these Registrars is a Superintendent Registrar for a combination of districts. It is the duty of the Superintendent Registrar to verify all entries of births, deaths and marriages, and forward them quarterly to the Registrar-General. The Office is also responsible for the work of the Census of population.

As from 1st April, 1930, the Local Government Act, 1929, Part II, transferred the duties from the Boards of Guardians to County and County Borough Councils, and in the case of London to the Common Council of the City of London and the Metropolitan Borough Councils.

(2) *The Board of Control* was created by the Mental Deficiency Act, 1913, for the purpose of administering the Acts relating to persons of unsound mind and mental defectives.

(3) *Central Valuation Committee* under the Rating and Valuation Act, 1925, for promoting uniformity in valuation for rating upon a national basis.

7. MINISTRY OF AGRICULTURE AND FISHERIES. The Board of Agriculture was established in 1889. Its powers were extended in 1903, when it became the Board of Agriculture and Fisheries.

The Ministry of Agriculture and Fisheries Act, 1919, Part I, substituted a Ministry for the Board. In December, 1919, the Ministry was reorganized. The work of the Ministry is divided into five divisions, viz.: (1) Intelligence, (2) Land and Supplies, (3) Finance and Economics, (4) Fisheries, (5) Welsh Division.

*Part II of the Act* of 1919 introduced important alterations in the working constitution of the Ministry. For the purpose of assisting the Ministry in executing their powers and duties, the Act established a Council of Agriculture for England, a similar Council for Wales, and an Agricultural Advisory Committee for England and Wales.

*Part III of the Act* deals with the establishment of County Agricultural Committees described in Chapter XV. In August, 1922, the Ministry issued a notice stating that the Treasury, on the recommendation of the Development Commission, had made a grant towards the establishment of a Rural Industries Intelligence Bureau, whose object it was to provide skilled advice to all who were concerned in the promotion and extension of these industries.

The National Veterinary Service was established under the Agriculture Act, 1937.

8. THE MINISTRY OF TRANSPORT was established by the Ministry of Transport Act, 1919, for improving the means of, and the facilities for, locomotion and transport. The Act provided for the transfer to the Minister by Order in Council of all powers and duties of any Government Department in relation to (a) railways ; (b) light railways ; (c) tramways ; (d) canals, waterways and inland navigation ; (e) roads, bridges, and ferries, and vehicular traffic thereon ; (f) harbours, docks, and piers. The Ferries Act, 1919, made provision for the establishment by local authorities of ferries, the tolls for which are subject to the approval of the Minister.

The Electricity (Supply) Act, 1919, provides for the setting up, by the Minister, of Electricity Commissioners and enables these commissioners in certain circumstances to group areas and to establish joint electricity committees.

The Electricity (Supply) Act, 1926, provides for the establishment of a Central Electricity Board by the Minister in order to secure the more efficient and economical distribution of electricity and the standardization of frequency.

The Ministry possesses appellate jurisdiction, as e.g. under the Restriction of Ribbon Development Act, 1935.

The Trunk Roads Act, 1936, constituted the Minister the authority for the maintenance of the defined trunk roads in Great Britain.

9. THE MINISTRY OF LABOUR AND NATIONAL SERVICE was established in January, 1917, by the New Ministries and Secretaries Act, 1916. It was re-named as above in December, 1938. There has been transferred to this Department the powers and duties of the Board of Trade under the Conciliation Act, 1896, Labour Exchanges Act, 1909, Trade Boards Acts, 1909 and 1918, and Unemployment Insurance Acts. It is responsible for the issue of the Cost of Living Index figures, and Retail Prices Index. The Minister is responsible to Parliament for the work of the Unemployment Assistance Board and the Statutory Committee constituted under the Unemployment Insurance Act, 1935.

10. THE MINISTRY OF PENSIONS was created by the Ministry of Pensions Act, 1916, to unify the administration of pensions, grants and allowances relating to the Naval and Army pensions, other than service pensions.

11. THE POST OFFICE, besides its ordinary business, collects certain local taxation licences for County and County Borough Councils, viz. dog, gun, game, and armorial bearings. It sells National Insurance Stamps on behalf of the Ministry of Health

and the Ministry of Labour. It pays Old Age, Widows' and Orphans' Pensions, Naval, Army, and Air Services Separation Allowances and Pensions, and sells National Savings Certificates and Stamps.

12. THE CHARITY COMMISSIONERS. The Charity Commission was established in 1853 "for the better administration of Charitable Trusts in England and Wales."

In 1879 the powers previously exercised by the Endowed Schools Commissioners were permanently transferred.

By Orders in Council the powers of the Commissioners over all endowments for purely educational purposes were transferred in 1899 to the Board of Education.

The work has been extended and brought into closer relation with the local authorities under the War Charities Act, 1916, and the Blind Persons Act, 1920, which provide for the registration of certain charities by local authorities. Their consent is required to the reconstruction of charitable bequests.

The Charitable Trusts Act, 1925, makes the official trustees of charitable funds a body corporate, with an official seal, which must be officially and judicially noticed.

#### POWERS OF MINISTERS.

In October, 1929, a Committee was appointed by the Lord Chancellor under the Chairmanship of the Earl of Donoughmore, K.P., to "consider the powers exercised by or under the direction of (or by persons or bodies appointed specially by) Ministers of the Crown by way of (a) delegated legislation, and (b) judicial or quasi-judicial decision, and to report what safeguards are desirable or necessary to secure the constitutional principles of the sovereignty of Parliament and the supremacy of the Law." The Report of the Committee was issued in June, 1932.

The following are the points from the Report which relate to Local Government—

##### 1. DELEGATED LEGISLATION.

- (1) Simplification of nomenclature.
- (2) Powers should be clearly defined.
- (3) "Henry VIII Clause" should be exceptional.

This clause, which confers power on a Minister to modify the provisions of Acts of Parliament, e.g. Section 130 of the Local Government Act, 1929 (no longer operative), should be abandoned in all but the most exceptional cases, and should not be permitted by Parliament except upon special grounds stated in the Ministerial Memorandum attached to the bill.

- (4) Limits on the "Clause" if used:

The "Henry VIII Clause" should—

(a) Never be used except for the sole purpose of bringing an Act into operation;

(b) Be subject to a time limit of one year from the passing of the Act.

(5) Exclusion of the jurisdiction of the courts should be exceptional.

(6) Limits on such exclusion.

(7) The right and duty of the Courts.

Except where immunity from challenge is intentionally conferred, there should not be anything in the language of the statute even to suggest a doubt as to the right and duty of the Courts of Law to decide in any particular case whether the Minister has acted within the limits of his power.

(8) The Rules Publication Act, 1893, should be amended.

(9) General applicability of new Act.

(10) Consultation with those concerned.

(11) Explanatory of new regulations.

(12) Simplification of procedure for laying regulations before Parliament.

(13) Explanatory memorandum with delegating bills.

(14) Proposed Standing Committee of each House.

Standing Orders of both Houses should require that a small Standing Committee should be set up in each House of Parliament at the beginning of each session for the purpose of—

(a) Considering and reporting on every Bill containing a proposal to confer law-making power on a Minister;

(b) Considering and reporting on every regulation and rule made in the exercise of delegated legislative power, and laid before the House in pursuance of statutory requirement.

(15) Drafting of delegated legislation.

It is stated that the above recommendations are intended to apply to such bodies as the Electricity Commissioners, who are appointed by the Minister of Transport with the concurrence of the Board of Trade, and carry their powers into effect under the Minister's directions.

## 2. JUDICIAL DECISIONS.

Local Government is thus subject to a certain amount of control by the Central Departments. It is also controlled by the exercise of the doctrine of *ultra vires*; in other words the local authority must act within its powers. The operation of this doctrine is left to the interpretation of the Judicature, which is dealt with in the next Chapter.

## CHAPTER V

### THE JUDICATURE

**JUDICIAL DECISIONS.** The Report of the Committee on Ministers' Powers, which was issued in June 1932, in dealing with the principle of the Rule of Law, recommended the following safeguards—

- (a) (i) The maintenance of the jurisdiction of the High Court to review and, if necessary, to quash proceedings on the ground that the Minister or the Ministerial Tribunal has exceeded the statutory powers.
- (ii) The existence of a simple procedure for the purpose.
- (b) The vigilant observance by the Minister or the Tribunal of the principles of natural justice.
- (c) In every case in which a statutory public inquiry is held, the publication of the report of the person holding the inquiry, subject only to the reservation that there may be exceptional cases, where on special grounds the Minister may hold that publication would be against the public interest.
- (d) (i) The right of any party aggrieved by a judicial decision to appeal to the High Court on any question of law within a short stated time; and
- (ii) The existence of a simple procedure for the exercise of such right.

*The Principles* of local government administration are subject to interpretation by the Courts. It is essential, therefore, that the judicial system should be studied, in outline, for a more complete understanding of the subject.

*The Judicature* may be classified as follows—

1. The Supreme Court of Judicature.
2. County Courts.
3. Petty Sessions.
4. The Court of Quarter Sessions.

#### 1. THE SUPREME COURT OF JUDICATURE.

Constituted by the Supreme Court of Judicature Act, 1873, which with its various amendments was consolidated in the Supreme Court of Judicature Act, 1925. It consists of—

- (a) The Court of Appeal. In practice it consists of the Master of the Rolls and the eight Lord Justices of Appeal. (Supreme Court of Justice (Amendment No. 2) Act, 1938.)

- (b) The High Court of Justice which has three divisions—
  - (1) The King's Bench Division.
  - (2) The Chancery Division.
  - (3) The Probate, Divorce and Admiralty Division.
- (1) *The King's Bench Division* deals with contracts, torts, agency, partnership, Inland Revenue, the sale of goods, etc. A Royal Commission on the Despatch of Business at Common Law was appointed in December, 1934, and reported in January, 1936.
- (2) *The Chancery Division* has assigned to it—
  - (i) The jurisdiction exercised by the High Court of Chancery.
  - (ii) Estates.
    - (a) The administration of estates of deceased persons.
    - (b) The raising of portions or other charges on land.
    - (c) The redemption or foreclosure of mortgages.
    - (d) The sale and distribution of the proceeds, subject to any lien or charge.
    - (e) The specific performance of contracts between vendors and purchasers of real estates, including contracts for leases.
    - (f) The partition or sale of real estates.
  - (iii) Partnerships. The dissolution of partnerships or the taking of partnership or other accounts.
  - (iv) Trusts. The execution of trusts, charitable or private.
  - (v) Wards. The wardship of infants and the care of infants' estates.
  - (vi) Statutory Jurisdiction. Acts of Parliament have, from time to time, assigned other matters to the Chancery Courts, relating principally to—
    - (a) Charities.
    - (b) Companies.
    - (c) Married Women.
    - (d) Bankruptcy.

The common attribute of all these causes is that they relate to property.

(3) *The Probate, Divorce and Admiralty Division* has jurisdiction *inter alia* over—

- (i) Probate of wills.
- (ii) Grants of letters of administration.

Appeal lies from the various Divisions of the High Court to the Court of Appeal and thence to the House of Lords.

## 2. COUNTY COURTS—

These Courts were constituted in their present form in 1846 and possess a limited jurisdiction—

- (a) Geographically.
- (b) As to amount.

Jurisdiction includes—

- (i) Actions founded on contract and tort limited to £100.
- (ii) Actions relating to real property of an annual value not exceeding £20.
- (iii) Chancery Court actions, *viz.*—
  - (a) Equity jurisdiction provided property does not exceed £500 in value.
  - (b) Questions of title to real property if annual value does not exceed £100.
  - (c) Probate jurisdiction if estate does not exceed £200 personalty and £300 realty.
  - (d) Admiralty actions.
  - (e) Actions in bankruptcy, and replevin to any amount.
  - (f) Company winding up, when paid up capital does not exceed £10,000.
- (vii) Miscellaneous actions, including actions under—
  - (a) Agricultural Holdings Acts, by farmers for improvements.
  - (b) Open Spaces Acts, 1875 and 1906.
  - (c) Settled Land Act, 1925.
  - (d) Increase of Rent and Mortgage Interest (Restriction) Acts, 1920 to 1938.
  - (e) Landlord and Tenant Act, 1927.
  - (f) Housing Acts, 1936 and 1938.
  - (g) Public Health Acts, 1936 to 1938.

If the local authority prefer they may sue in the County Court, and not before the justices of the peace, for amounts under £50 (Public Health Act, 1875, Sec. 261), but the six months limitation applies just as if the case were in the petty sessions. (*West Ham L.B. v. Maddams*, 1876, L.R.1 Ex.D. 516n.)

### 3. PETTY SESSIONS.

Two justices of the peace, or one stipendiary magistrate comprise a Court of Summary Jurisdiction.

The Civil jurisdiction includes—

Appeals under—

- (a) Public Health Acts, 1875 to 1938.
- (b) The Private Street Works Act, 1892.
- (c) Town and Country Planning Schemes, e.g. Section 13, Act 1932.

All offences against the Public Health Acts, and all penalties, forfeitures, costs, and expenses are prosecuted and recoverable before the justices of the peace unless otherwise stated. Unless the offence is a continuing one, the limitations period in all these cases is six months.

The council for the district and also any party aggrieved may

sue or prosecute without any preliminary steps. All other persons or bodies must obtain the consent of the Attorney-General, except that a council may proceed without such consent, against persons or property outside their district which are causing a nuisance (within the meaning of the Public Health Acts), or breaking the law as to offensive trades.

A Committee to inquire into the Social Services connected with the administration of justice in Courts of Summary Justice was set up by the Lord Chancellor in February, 1935, and reported in March, 1936.

#### 4. THE COURT OF QUARTER SESSIONS.

This Court is one of the oldest institutions in the country. It may be either—

(a) Borough, a separate court presided over by a recorder, who must be a barrister of at least five years' standing.

(b) County, consisting of the whole of the county justices of the peace (or as many as can be accommodated in the court house) sitting together, and presided over by a chairman.

(c) The Administration of Justice (Miscellaneous Provisions) Act, 1938, enables a paid chairman or deputy chairman to be appointed for county sessions.

*The civil jurisdiction* includes—

(i) Granting certificates for diversion or stopping up of highways. (Highways Act, 1835, Secs. 84-91.)

(ii) Appeals against decisions of a Court of Summary Jurisdiction under the Town and Country Planning Act, 1932.

(iii) The Summary Jurisdiction (Appeals) Act, 1933, provides that appeals must be made within fourteen days.

In the county, the Court of Quarter Sessions must make proper arrangements for "keeping the peace of the county," appointing one-half of the Standing Joint Committee and also Prison Visiting, County, Licensing, and other committees.

The subject is more fully treated in *Outlines of Central Government including the Judicial System* (Pitman).

## CHAPTER VI

### REGISTRATION AND ELECTIONS

#### INTRODUCTION

THE law relating to local government registration and elections in England and Wales is contained in the following—

- (1) The Ballot Act, 1872.
- (2) The Municipal Corporations Act, 1882.
- (3) The Municipal Elections (Corrupt and Illegal Practices) Acts, 1884 and 1911.
- (4) The Representation of the People Acts, 1918 to 1928.
- (5) The Local Government Act, 1933, Parts I and II and Second Schedule.

#### LOCAL GOVERNMENT ELECTORS

The Representation of the People Acts, 1918 to 1928, made a sweeping change in the qualification of electors so far as local government elections and the right to vote at any such elections are concerned.

The Representation of the People Act, 1918, Sixth Schedule, provides that electors qualified under the provisions are substituted for any reference in any other Act to local government electors, county electors, burgesses, parochial electors, or other persons entitled to vote at a local government election, by whatever name called.

Local government electors so registered are in the same position for all electoral purposes, whether statutory or otherwise, as any such local government electors, county electors, burgesses, parochial electors, or persons.

#### LOCAL GOVERNMENT FRANCHISE

The Representation of the People (Equal Franchise) Act, 1928, repealed subsection (3) of Section 4 of the Representation of the People Act, 1918, for the purpose of providing that the local government franchise shall be the same for men and women. Section 2 of the 1928 Act was substituted for Section 3 of the 1918 Act. It provides that a person shall be entitled to be registered as a local government elector for a local government electoral area, if he or she is of full age and not subject to any legal incapacity, and

(a) is on the last day of the qualifying period *occupying* as owner or tenant, any land or premises in that area ; and

(b) has during the whole of the qualifying period, so occupied any land or premises in that area, or, if that area is not an administrative county or a county borough, in any administrative county or county borough in which the area is wholly or partly situate ; or

(c) is the husband or wife of a person entitled to be so registered in respect of premises in which both the person so entitled and the husband or wife, as the case may be, reside.

Provided that—

(i) for the purposes of this section a person who inhabits any dwelling-house, by virtue of any office, service, or employment, shall, if the dwelling-house is not inhabited by the person in whose service he or she is in such office, service, or employment, be deemed to occupy the dwelling-house as a tenant ; and

(ii) for the purpose of this section the word "tenant" shall include a person who occupies a room or rooms as a lodger only where such room or rooms are let to him in an unfurnished state.

(iii) for the purpose of paragraph (c) of Section 2, a naval or military voter who is registered in respect of a residence qualification which he or she would have had but for his or her service, shall be deemed to be resident in accordance with the qualification.

#### REGISTRATION OFFICER

(1) City of London: The Secondary.

(2) The County of London: The Town Clerk of each of the 28 Metropolitan Boroughs.

(3) Parliamentary Borough: The Town Clerk.

(4) Where the registration area is a Parliamentary County coterminous with or wholly contained in one Administrative County: The Clerk of the County Council.

(5) Where the Registration area is a Parliamentary County not coterminous with or wholly contained in one Administrative County: Such Clerk of the County Council as the Secretary of State appoints.

Any of the duties and powers of the registration officer may be performed and exercised by any deputy for the time being approved by the Secretary of State. The duty of the Registration Officer is to compile the Register of Electors in accordance with the rules of the Act.

#### THE REGISTER OF ELECTORS

It is a condition precedent to exercising the vote that the elector

should be placed upon the Register of Electors, which will include, except in a Parliamentary borough, electors for county, municipal, or metropolitan borough, district and parish councils. Any person may claim to be placed upon the register, and anyone on the list may object to such claims, or to the inclusion of any name on the list.

The Economy (Miscellaneous Provisions) Act, 1926 (Sec. 9 (1) ), provided for the substitution of one register for Parliamentary and local government electors for each year instead of the spring and autumn registers provided for by the Representation of the People Act, 1918.

Section 11 of the Act, provides that Part III thereof "may be cited as the Representation of the People (Economy Provision) Act, 1926, and shall be construed as one with the Representation of the People Acts, 1918 to 1922."

Since the passing of the Equal Franchise Act, 1928, the Acts are now cited as the Representation of the People Acts, 1918 to 1928.

#### THE QUALIFYING PERIOD

The "qualifying period" referred to in the 1918 Act, as amended by the Representation of the People Acts, 1926 and 1928, is the period of three months ending on the first day of June and including that day.

Provided that, in relation to a person who is a naval or military voter, or who has been serving as a member of the naval, military, or air forces of the Crown at any time during the said three months and has ceased so to serve, one month shall be substituted for three months as the qualifying period.

#### LEGAL INCAPACITY

(a) The following persons are not entitled to be registered or to vote: infants, i.e. persons under 21 years of age; aliens, traitors or felons, idiots, and, for a period, persons convicted of corrupt or illegal practices.

(b) Peers are disqualified for Parliamentary but not for local government elections.

(c) A returning officer, whether or not entitled to vote in the first instance, may give a casting vote in the event of a tie.

(d) Bankruptcy is not a disqualification but may destroy occupation qualification.

(e) Residence in a poor law institution, prison, or mental hospital will not qualify for a vote.

#### MACHINERY FOR REGISTRATION

1. It is essential that a complete canvass should be made throughout the registration area to ascertain the names of persons qualified to be registered as electors.

2. Every occupier should, as directed in the Circular of the Home Secretary of 1935, also be supplied with the appropriate Form of Return A or D, and the information contained in the Return will be used for the purpose of supplementing and verifying the particulars obtained by the canvassers.

3. The Home Office issued a circular letter in April, 1930 (548894/8), with reference to certain matters in connection with the preparation of the Register of Electors and the Jurors Book.

4. The dates applicable to the proceedings in preparing the Register are those specified in the Third Schedule to the Representation of the People (Economy Provisions) Act, 1926, viz.—

End of three months' qualifying period: 1st June.

Publication of electors lists: 15th July.

Last day for notice of objections to electors lists: 31st July.

Last day for claims as absent voters: 18th August.

Publication of lists of claimants: 13th August.

Last day for notification of desire of naval or military voter not to be placed on absent voters list: 18th August.

Publication of lists of objections to electors lists: 13th August.

Last day for objections to claimants: 18th August.

Publication of lists of objections to claimants: 18th August (as soon as practicable after).

The last day for claims for out-voters in a county constituency or a district of boroughs is 18th August.

5. The dates until which documents are to be kept published are set out in Schedule IX to the Representation of the People Order, R.P.134.

6. The Register comes into force on 15th October.

#### APPEALS

An appeal lies from the decision of a registration officer to the County Court, and on a point of law from the County Court to the Court of Appeal.

#### RIGHT TO VOTE

Once placed upon the register any person not suffering from legal incapacity, such as infancy, insanity, or being an alien, is entitled to vote. The refusal by a returning officer at an election to accept the vote of any person of capacity upon the register is an infringement of a right of property, and renders the returning officer liable to an action for damages. (*Ashby v. White* (1704), 2 Lord Raymond, 938; 92 E.R. 126.)

Limited companies have no voting rights in Great Britain.

## EXPENSES OF REGISTRATION

1. Approved expenses of duly authorized persons in connection with the registration of electors shall be paid by the Council by whom the Town Clerk, or Clerk, is employed or designated as Registration Officer. In the case of a County, the expenses are paid out of the County Fund; and of a Borough or Urban District, out of the General Rate.

2. The Treasury make a grant of one-half of the approved expenditure incurred by the Council in connection with the registration of electors. The expenses must not exceed the scale laid down in the Rules issued by the Treasury.

3. Fees, etc., received by registration officers in connection with the performance of their duties, shall go to the credit of the account to which the expenses of registration are debited.

4. The Council of the County, Borough or Urban District are empowered, when levying their County or General Rate, to levy, as special or general expenses respectively, the cost incurred or to be incurred in connection with the registration of electors, after deducting the Treasury grant.

5. Districts not coterminous or wholly contained in the administrative county or borough having incurred expenses, such expenses shall be charged against the County or Borough concerned.

## LOCAL GOVERNMENT ELECTIONS

(a) *County Councils.*

Councillors are elected to County Councils triennially, in the month of March. County Aldermen are elected by the Councillors and hold office for six years, one-half retiring by rotation every third year at the same time as the Councillors.

(b) *Borough Councils.*

Councillors of Boroughs, whether County or non-County Boroughs, are elected for three years, one-third retiring by rotation each November. Aldermen are elected for six years by the Councillors, one-half retiring triennially.

(c) *Urban and Rural District and Parish Councils.*

The Councillors of these bodies likewise hold office for three years and retire by thirds each year, but the County Council may, on the application of the District or Parish Council, provide for simultaneous retirement every third year. The elections for these Councils are held in April, on a date within specified limits fixed by the County Council.

### QUALIFICATIONS OF COUNCILLORS

The requisite qualifications are dealt with in the various chapters which follow on the constitution of local authorities.

Certain qualifications apply only to particular classes of authorities, but the following qualifications are common to all local authorities. (Sec. 57 of the Local Government Act, 1933).

(i) Registration as a local government elector within the particular area; or

(ii) Ownership of property held by freehold or leasehold tenure within the area of the authority; or

(iii) Residence in the area for twelve months immediately preceding the election. For a parish council, residence within three miles of the parish will qualify.

The Sex Disqualification Removal Act, 1919, enabled women to be elected to local authorities on the same basis as men.

The Ministers of Religion (Removal of Disqualifications) Act, 1925, provided that as from the 31st July, 1925, no person should be disqualified for being elected or being a Councillor of a borough by reason only that he is in Holy orders or the regular minister of a dissenting congregation.

### DISQUALIFICATIONS OF COUNCILLORS

1. Under the Local Government Act, 1933, Sect. 57, infants and undenominated aliens are disqualified.

2. Under Sec. 59 of the same Act the following are disqualified—

(a) Holders of paid offices under the authority. Exceptions are Mayor or Chairman, Sheriff, and, under certain conditions, a county returning officer.

(b) Bankrupts and those having made a composition with creditors—with certain qualifications as to bankruptcies annulled or discharged.

(c) Recipients of poor relief within twelve months, except for medical or surgical relief or relief which could have been given under the Blind Persons Act, 1920.

(d) Persons surcharged over £500 by a district auditor within five years, subject to an appeal to the High Court.

(e) Persons sentenced to imprisonment for three months or more without the option of a fine within five years or since election, subject to any appeal.

(f) Persons convicted of corrupt and illegal practices.

(g) Elective auditor of a borough.

(h) Poor law officers in respect of county or county borough councils and those dismissed from poor law office within five years.

(i) Teachers in non-provided schools are in the same position as teachers in provided schools.

3. A person interested in a contract with his authority is no

longer disqualified, but he must disclose such interest and refrain from taking part in the consideration of any such contract or voting thereon (Local Government Act, 1933, Sec. 76). Standing Orders may provide for his exclusion during consideration of any such contract.

#### MODE OF ELECTIONS

Election is by ballot, in accordance with the Ballot Act, 1872, and the Corrupt and Illegal Practices Acts, except for Parish Councils where a show of hands will suffice, unless a poll is demanded.

Bills have been introduced to extend the transferable vote system of proportional representation to local government elections in England and Wales. Although a Bill passed the House of Lords it was defeated on second reading in the House of Commons on each occasion.

The Local Government (Hours of Poll) Act, 1938, empowers returning officers in county and county borough elections to extend the polling hours by one hour (from 8 to 9 p.m.) if as many candidates as there are seats to fill give notice to that effect.

#### CORRUPT AND ILLEGAL PRACTICES

The subject is governed by the

- (i) Municipal Corporations Act, 1882, Part IV.
- (ii) Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and the
- (iii) Corrupt and Illegal Practices Prevention Act, 1895.
- (iv) Municipal Electors (Corrupt and Illegal Practices) Act, 1911, which is construed as one with the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

The Act of 1884 was originally a temporary Act, kept in force by successive Expiring Laws Continuance Acts, but it was eventually made permanent by (v) the Representation of the People Act, 1918.

(a) The above Acts deal primarily with municipal elections, but by Secs. 48 (3) and (8) of the Local Government Act, 1894, its provisions, together with those of Part IV of the Municipal Corporations Act, 1882, were generally extended, subject as in that section mentioned, and subject to the modifications prescribed by the Secretary of State to elections of councillors of non-municipal districts and of parish councillors.

This has now been repealed by and its provisions incorporated in the Local Government Act, 1933. (Sec. 40 (2) and Sec. 54 (2).)

(b) The Acts also apply, by virtue of the Local Government Act, 1894, and the London Government Act, 1899, to elections of metropolitan borough councillors.

(c) Under the Local Government Act, 1888, Sec. 75, as amended by the Local Government Act, 1933, the Acts also apply to elections of members of county councils.

(d) The Acts apply in the case of a borough, to elections of the aldermen, of the mayor, and of an elective auditor, as well as to elections of borough councillors. It applies also to elections of the chairman and aldermen in the case of a county council and a metropolitan borough council.

#### PENALTIES

1. A person guilty of an offence of illegal payment, employment or hiring, shall on summary conviction, be liable to a fine not exceeding £100 (Municipal Elections (Corrupt and Illegal Practices) Act, 1884, Sec. 17 (1)), and is disqualified for five years (*Ibid.*, Sec. 7).

2. Where an offence of illegal payment, employment, or hiring is committed by a candidate, or with his knowledge and consent, such candidate shall be guilty of an illegal practice (*Ibid.*, Sec. 17 (2)).

3. Section 7 of the Act, provides that "a person guilty of an illegal practice in reference to a municipal election shall on summary conviction be liable to a fine not exceeding £100, and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at an election (whether it be a Parliamentary election or an election for a public office within the meaning of this Act) held for or within the borough in which the illegal practice has been committed."

4. "Public office" here means (*inter alia*) the office of mayor, chairman, alderman, councillor of a local authority in any county, city, borough, sanitary district, or other area.

5. The Municipal Elections (Corrupt and Illegal Practices) Act, 1884, provides that if any person, in consequence of conviction or of the report of an election court under the Act, becomes not capable of being elected to or sitting in the House of Commons, or of being elected to or holding any public or judicial office, and such person, at the date of the said conviction or report has been so elected or holds any such office, then his seat or office, as the case may be, shall be vacated as from that date. (Sec. 31.)

6. Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at a municipal election is prohibited from voting at such election, and if any such person votes his vote shall be void and shall be struck off on a scrutiny (*Ibid.*, Sec. 22).

7. A person guilty of corrupt practice is liable to imprisonment for one year or a fine not exceeding £200 and disqualification for

seven years. (Corrupt and Illegal Practices Prevention Act, 1883, Sec. 6.)

#### ELECTION PETITIONS

(1) Various sections of the Act of 1884 regulate the procedure relating to election petitions in which charges are made of illegal practices having been committed during the election.

(2) Section 19 deals with certain excuses and exceptions for corrupt or illegal practice or illegal payment, employment, or hiring which may be adduced before an election court, and Sec. 20 with the power of the High Court or election court to except an innocent act from being an illegal practice, etc.

(3) "Corrupt practices" under the Act mean treating, undue influence, bribery and personation, and aiding, abetting, counselling, and procuring the commission of the offence of personation (Sec. 2).

(4) Section 3 of the Act deals with the incapacity of a candidate reported by an election court as guilty of corrupt practices.

#### QUALIFICATION OF JURORS

1. By the Juries Act, 1922, the separate lists of Jurors disappeared, but the qualifications and disqualifications were with certain exceptions left alone.

2. The Juries Act, 1922, enacts that "lists of the persons qualified and liable to serve as jurors shall cease to be prepared in accordance with the provisions of the Juries Act, 1825, as amended by any subsequent enactment, and the jurors books shall be prepared in accordance with the following provisions of this section": Sec. 1 (1).

3. The procedure is prescribed by the Juries Act, 1922, and the Juries Order, 1927, as amended by the Local Government Act, 1929, Sec. 79, for marking in the electors lists the names of persons qualified and liable to serve as jurors or special jurors.

4. It thus became the duty of every Registration Officer, within the meaning of the Representation of the People Act in making out the electors lists for the register for any year, to mark in the prescribed manner the names of such of the persons included in the lists as were qualified and liable to serve as jurors and the names of such persons so qualified and liable as were qualified to serve as special jurors: Sec. 1 (2). This is effected by the letters "J" and "SJ" in heavy type being put against the names in Column 3.

5. The procedure prescribed by the Juries Act, 1922, and the Juries Order, 1927, for marking in the electors lists the names of persons qualified and liable to serve as jurors or special jurors remains unaltered.

6. The Local Government Act, 1929, provides that for the

purpose of determining the qualification of a juror or special juror—

(a) The rateable value of any property is to be taken to be the net annual value appearing in the valuation list in force.

(b) If the property is not included in that list, the net annual value thereof for income tax purposes, any necessary apportionment of that value being made by the Registration Officer.

(c) By Section 81 of the Act, the Registration Officer may obtain from the Inspector of Taxes copies of annual values for the time being in force for purposes of income tax, but such returns should be necessary only in border-line cases where special difficulty arises.

(d) The Local Government Act, 1933, Sec. 297, contains similar provisions.

7. For the purpose of enabling registration officers to perform their duties under the section, the officers of every parish are, if so required by the registration officer of their area, to furnish to him, in the prescribed manner, particulars with respect to the persons in their parish who are, on the last day of the qualifying period for registration in the register, qualified and liable to serve as jurors or qualified to serve as special jurors (Juries Act, 1922, Sec. 1 (3)).

8. The effect of the Rating and Valuation Act, 1925, is to substitute "designated officers" of the rating authority for the "officers of every parish" mentioned above. (Sec. 62.)

## SECTION II

### Local Authorities in England and Wales

#### CHAPTER VII

##### THE PARISH COUNCIL

THE PARISH is of Saxon origin. England was first divided into parishes in A.D. 670, by Theodore of Tarsus, Archbishop of Canterbury. For local government purposes the parish means "a place for which, prior to the Rating and Valuation Act, 1925, a separate poor rate was or could be made, or for which a separate overseer was or could be appointed." The parish is not only the unit of local government but may be considered as the original area for local government. Out of it developed the original Parliament.

The Civil Parish is either rural or urban. Any parish which lies within a rural county district is a Rural Parish, all other parishes being urban.

There are also Ecclesiastical and Land Tax Parishes, which are not, however, areas for any local government purpose.

THE RURAL CIVIL PARISH is governed by a Parish Council or a Parish Meeting. It is necessary to distinguish between a Parish Meeting and a Parish Council.

##### PARISH MEETING

PARISH MEETING is an assembly of all the local government electors of the Parish.

*Where no Parish Council is elected* the following provisions apply—

(1) The Chairman and councillor or councillors on the Rural District Council are a corporate body with perpetual succession, but without a common seal, and are called the representative body of the parish.

(2) *Meetings*—There is an annual meeting between 1st March and 1st April. If there is no Parish Council there must be at least one other meeting. Meetings must not be held before 6 p.m. Further meetings may be called at any time by—

- (a) the Chairman of the Parish Meeting; or
- (b) the representative on the Rural District Council; or
- (c) any six electors; and
- (d) where there is a Parish Council, any two councillors.

(3) *Committees* may be appointed, which must report their acts for the approval of the Meeting.

(4) *Powers and Duties—*(a) *Where there is no Parish Council—*

- (i) Administration of non-ecclesiastical charities.
- (ii) Provision of allotments.
- (iii) Veto stopping or diversion of highways.
- (iv) Petition Minister against proposed alteration of parish boundaries.
- (v) Complaint to County Council of default of District Council.

(vi) Appointment of two representatives on rating authority.

(vii) Making objections and appeals against Valuation List and Rates.

(viii) Appointment of two managers to a provided school and one to a non-provided school serving the parish.

(ix) Representation as to provision of houses.

(x) Any powers of a Parish Council by order of the County Council.

(b) *Where there is a Parish Council—*

(i) Adoption of the Adoptive Acts in respect of lighting, burial grounds, and recreation grounds.

(ii) Consent to sale or exchange of land vested in the Parish Council.

(iii) Consent to expenditure of Parish Council involving a rate of more than 4d. in the £ or the raising of a loan.

(5) *Officers*.—A paid clerk may be appointed with the consent of the County Council. An unpaid treasurer may be appointed.

(6) *Rates*.—The Parish Meeting cannot directly levy a rate. Expenditure, limited to proceeds of 8d. rate, *inclusive* of Adoptive Acts, is met by precepts (or orders) upon the Rating Authority, the proceeds of which are collected together with the General Rate.

(7) *Accounts*.—Made up yearly to 31st March, and audited by the District Auditor appointed by the Minister of Health.

## PARISH COUNCIL

## A PARISH COUNCIL is elected—

(1) In all rural parishes where the population is 300 or upwards.

(2) If the population is less than 300 but over 200, a Parish Council may be elected if the Parish Meeting so decides.

(3) In parishes where the population is less than 200, a Parish Council may be elected if the consent of the County Council is obtained also.

(4) Parishes may be grouped under one Parish Council by an Order issued by the County Council with the consent of the Parish Meetings concerned.

(5) The election takes place at the Annual Parish Meeting. Voting is by show of hands, unless a poll is demanded.

(6) The County Council may, at the request of the Parish Council or Meeting, direct that the election shall be by nomination and, if necessary, by a poll.

1. CONSTITUTION—Five to fifteen members elected for three years by the local government electors at a meeting normally held on the 15th day of April and every third year thereafter. (Local Government Act, 1933, Sec. 57.)

Councillors must be—

(i) Local government electors of the parish; or

(ii) Any person, male or female, resident within the parish or within three miles of the parish during the whole of the twelve months preceding the 25th March in the year preceding the election; or

(iii) Owners of freehold or leasehold land in the parish.

2. THE PARISH COUNCIL is a corporate body with perpetual succession, but without a common seal. The Chairman may be elected from outside the Council, but must be qualified to be a councillor.

(1) *Meetings*—There is an Annual Meeting on or within fourteen days after the 15th April and at least three other meetings. Special meetings may be called by the Chairman or two Councillors.

(2) *Committees* may be appointed, including a Parochial Committee under the Local Government Act, 1933 (Sec. 87).

### 3. POWERS AND DUTIES—

#### (a) *General*—

(i) Appointment of two representatives on Rating Committee.

(ii) Administration of non-ecclesiastical charities.

(iii) Appeal to Assessment Committee and Quarter Sessions against valuations and rates.

(iv) Provision of parish room, books, and chest for the safe custody of the records.

#### (b) *Public Health and Housing*—

(i) It is not a sanitary authority, but may act in these matters by arrangement for Rural District Council.

(ii) May cleanse ponds and ditches.

(iii) May provide supply of water from local sources, baths and washhouses.

#### (c) *Highway*—

(i) May maintain and repair footpaths.

(ii) May acquire and maintain rights of way.

(iii) May veto stopping or diversion of highways.

#### (d) *Education*—Minor Education Authority, with power to

appoint one manager to each non-provided elementary school, and two managers to each provided elementary school serving the parish.

(e) *Land*—May acquire land for authorized purposes, including  
(i) Buildings for public offices and meetings.  
(ii) Public walks and recreation grounds.  
(iii) Baths and washhouses.

(f) *Allotments*—Provides allotments.

(g) May administer the parochial Adoptive Acts (described in Chapter XV) if approved by Parish Meeting.

OFFICERS are Clerk and Treasurer.

#### 4. FINANCE—

(1) *Rates*—Cannot directly levy a rate. Expenditure is met by precepts on the Rating Authority, is limited to 4d. in the £ (or with the approval of the Parish Meeting, 8d. in the £), *exclusive* of expenditure under the Adoptive Acts, including baths and washhouses.

(2) *Loans* may be raised by mortgages, subject to the approval of the Parish Meeting and the County Council, who may lend any money required.

(3) *Accounts* are made up yearly to 31st March, and are audited by the District Auditor. (See Chapter XXIX.)

5. PROMOTION OF PARISH COUNCIL to a District Council. Although the Parish Council was originally intended for the administration of rural areas, there are certain parishes with populations of several thousands governed by Parish Councils. Such parishes should be under Urban District Councils and the change may be effected as described in Chapter VIII.

6. ROYAL COMMISSION ON LOCAL GOVERNMENT, 1923. On 6th August, 1926, the terms of reference to the Royal Commission on Local Government, of which Lord Onslow was Chairman, were extended so as to enable the Commission to make recommendations as to the constitution, area, and functions of Parish Councils and Parish Meetings, and to investigate the relations between these authorities and other local authorities within the scope of the Commission's inquiry. The Final Report was issued in December, 1929.

7. THE LOCAL GOVERNMENT ACT, 1933, Part IV, provides that the County Council may review their areas at intervals. (Sec. 146.) (See page 46.)

8. THE LOCAL GOVERNMENT ACT, 1933, has repealed and re-enacted in a consolidated form, with minor amendments, most of the laws affecting parishes, excepting their functions.

## THE URBAN PARISH

The Vestry Meeting is a meeting of the Inhabitants and Ratepayers of the Parish. The Rating and Valuation Act, 1925, and the Local Government Act, 1933, have shorn the Vestry of all its Local Government powers and duties. This is now virtually of historical interest only.

FINAL REPORT OF THE ROYAL COMMISSION ON  
LOCAL GOVERNMENT, 1929*Part I. Functions of Parish Councils and Parish Meetings.*

(a) Powers and Duties of Parish Councils and Parish Meetings—

- (i) Scavenging;
- (ii) Village Halls.

(b) Procedure for adopting the Lighting and Watching Act, 1833.

(c) Limitation of Expenditure.

(d) Explanatory Leaflet as to Functions of Parish Councils and Parish Meetings.

(e) Parochial Committees—

- (i) The development of the system.
- (ii) Right of Appeal to County Council.
- (iii) Facilities for Joint Committees.

(f) Liaison between Rural District Council and Parish Council.

*Part II. Matters Relating to the Constitution of Local Authorities,  
viz. Election of Parish Councillors, either—*

- (a) By a scheme of election as outlined in the Report; or
- (b) By the Ballot Act.

Certain of these recommendations have been incorporated in the Local Government Act, 1933.

## CHAPTER VIII

### THE DISTRICT COUNCIL

1. THE DISTRICT is the local government unit for sanitary purposes. In Saxon times the local unit next above the village was the Hundred, an institution found under various names all over Western Europe. This is thought to have been the ancient "run" of a pastoral group or clan, out of which, as agriculture developed, sub-settlements of agricultural villages or townships were created. At the very dawn of English history we find as a well established institution the attendance of the village representatives ("reeve, priest, and four men") at the hundred moot. This is often spoken of as the first example of political representation in England.

The sanitary district was constituted by the Public Health Act, 1872, and is now known as the county district. The district is governed by an Urban District or a Rural District Council, in accordance with the Local Government Act, 1933.

A non-county borough is a "county district" for public health purposes and the sanitary work is performed by the Borough Council. A county borough council, though not a county district council, is the sanitary authority for the county borough.

2. ESTABLISHMENT OF DISTRICT COUNCIL.—When a County Council is satisfied that a *prima facie* case has been made out for the creation of an urban district, it may hold an inquiry and make an order in accordance with Section 141 or 146 of the Local Government Act, 1933. The initiative can best be taken by the Parish Council presenting a memorial to the County Council.

The Local Government Act, 1933, Sec. 146, provides that the County Council may review their areas, at intervals of not less than 10 years. (See page 44.)

3. CONSTITUTION OF DISTRICT COUNCIL.—At least one councillor for each parish of 300 population. Such councillors are elected by the local government electors for three years from 15th April in the year of election. As a rule one-third retire annually.

(1) *Qualifications* and (2) *Disqualifications* are described in Chapter VI.

(3) The District Council is a corporate body with perpetual succession and a common seal, and may hold land for the purposes of its powers and duties without licence in mortmain.

(4) The Chairman, who may be elected from outside the councillors, but must be qualified to be a councillor, is by virtue of his office a Justice of the Peace for the county, unless personally disqualified by any Act of Parliament. There is no power to pay a salary to the Chairman, but consideration is being given to the practicability of passing a Bill through Parliament for this purpose.

(5) Meetings. The District Council must hold an Annual Meeting on or as soon as conveniently may be after the 5th April and at least three other meetings. Further meetings may be called by the Chairman or any five councillors, or one-quarter the whole, whichever is the least.

(6) Minutes. Local authorities are required to keep minutes of every meeting. The minutes must be entered in a book for the purpose and duly signed. (*Vide* Local Government Act, 1933, Third Schedule, Part V, 3 (1).)

4. COMMITTEES. The general observations relating to the Committees of Borough Councils refer also to Committees of District Councils. Co-optation applies to all Committees except a Finance Committee.

5. POWERS AND DUTIES may be divided under three heads, viz.—

(a) *Those common to Urban and Rural District Councils, viz.—*

- (1) Public Health functions under various enactments, as described in Chapter XII.
- (2) Highway powers, as described in Chapter XVIII.
- (3) Land. May aid persons in maintaining rights of common.
- (4) Housing and Town and Country Planning Acts.
- (5) Making By-laws relating to Public Health.
- (6) Promoting or opposing Bills in Parliament. (Local Government Act, 1933, Sec. 253.)

(7) Power to apply for a Charter of Incorporation.

(8) Power to raise loans by the issue of Stock.

(9) Rating authority, as described in Chapter XXVIII.

(10) Public Utility Undertakings; including water, baths and washhouses, electricity, ferries, and interest in light railways.

(11) Powers, duties, and liabilities of Justices out of session.

(12) Air Raid Precautions: Fire Prevention Schemes.

(b) *Those applicable to Urban District Councils only, viz.—*

(1) Irrespective of population—

(a) Certain Public Health functions relating to urban areas.

(b) Highways.

(i) Adoption of Private Street Works Act, 1892.

(ii) Roads—Classified: May claim to retain if estimated population in 1928 exceeded 20,000.

Unclassified: Must maintain except by arrangement with county council.

(c) Educational:

(i) Minor Education Authority;

(ii) Power to aid or supply education other than elementary, limited to a 1½d. rate.

(d) Registration of War Charities under 1916 Act.

(e) Administration of the Fabrics (Misdescription) Act, 1913.

(f) Parochial Adoptive Acts as enumerated in Chapter XV, including power to provide allotments.

(g) Management of trading undertakings, e.g. gas works.

(2) Where population is 10,000 or over—

(i) authority under the Advertisements Regulation Acts 1907 to 1925;

(ii) if there are over 400 allotments, Council must appoint an Allotments Committee under the Allotments Act, 1922,

(iii) authority under Small Dwellings Acquisition Acts, 1899 to 1935.

(3) Where population is 20,000 or over, the Urban District Council is the authority under—

(i) Education Acts (Elementary Education Authority)—subject to the provisions of the Education (Local Authorities) Act, 1931.

(ii) Old Age Pensions Acts.

(iii) Shops Acts, 1912 to 1934.

(iv) Road Traffic Act, 1934, for speed limitation.

(4) Where population is 25,000 or over, it may petition for appointment of Stipendiary Magistrate under the Act of 1863.

(5) Where population is 40,000 or over, authority under the Food and Drugs Act, 1938.

(6) Where population is 50,000: Local Committee under Naval and Military War Pensions, etc., Acts, 1915 to 1921. Control of speed limit areas.

(c) *Those applicable to Rural District Councils only, viz.—*

(1) Sub-divided into parish councils and parish meetings.

(2) Power to delegate sanitary duties to Parish Council.

(3) Powers of a Parish Council, if boundaries are co-extensive with a local government parish.

(4) Power to apply to County Council to become an Urban District Council.

(5) Such urban powers as may be granted under Provisional Order issued by the Minister of Health, e.g. most of those described in paragraph 5 (2) above.

(6) Power to levy a Special Expenses Rate on part of the district.

(7) Housing. Higher grants and right to claim £1 per house for agricultural workers from County Council.

(8) *The Rural District Councils (Urban Powers) Order, 1931*, follows the recommendations of the Final Report of the Royal Commission on Local Government so far as it enjoins that the statutory powers, as distinct from duties, of urban and rural district councils should be more closely assimilated. Many functions in the Order have been made powers of rural district councils under the provisions of the Public Health Act, 1936.

#### 6. OFFICERS include—

- (1) Clerk            } These offices must not be held by same
- (2) Treasurer        } person.
- (3) Surveyor.        } Optional in rural district.
- (4) Medical Officer of Health    } Consent of Minister of Health
- (5) Sanitary Inspector        } to appointment and dismissal.
- (6) Other necessary officers, e.g. Rate Collector.

The Ministry of Transport Act, 1919, Sec. 17 (2), provides that the Minister may defray by agreement with the local authority half the salary and establishment charges of the engineer and surveyor of that local authority if it is responsible for the maintenance of the roads referred to in the section, subject to the condition that the appointment, retention, and dismissal of such engineer or surveyor, and the amount of such establishment charges shall be subject to the approval of the Ministry.

#### 7. RATES—

(1) Urban and Rural District Councils levy and collect their own rates and include therein the precepts of all spending authorities.

The expenditure of a Rural District Council is either—

- (a) General, which benefits the inhabitants generally.
- (b) Special, which benefits a particular contributory place or places.

This division is optional under Local Government Act, 1933, Sec. 190 (4).

(2) There is a difference between Urban and Rural Districts, the general expenditure in the former being defrayed out of a

fund to which certain properties, such as waterworks, are assessable in proportion to one-fourth only of their net annual value.

(3) The above-mentioned reduction applies to Special Rates levied in rural districts, but does not apply to rates levied for general expenses therein.

(4) Any District Council may also levy and collect a Private Improvement Rate, which is a charge under Section 157 of the Public Health Act, 1875. Under the Public Health Act, 1936, expenses recoverable from owners will be a charge upon the property. (Sec. 291.)

8. LOANS for sanitary works of a permanent character and other authorized purposes may be raised, repayable within a period normally not exceeding sixty years.

9. ACCOUNTS are made up yearly to 31st March in accordance with the Local Government Act, 1933, Sec. 223, and are audited by the District Auditor of the Ministry of Health.

10. RIGHTS OF ELECTORS—See page 8.

FINAL REPORT OF THE ROYAL COMMISSION ON  
LOCAL GOVERNMENT, 1929

*Part I. Functions of Local Authorities.*

(a) Distribution of Certain Functions between Local Authorities.

(i) By-laws for Good Rule and Government.

(ii) Appointment of Gas Examiners. (See Gas Undertakings Act, 1934.)

(b) Other Questions Affecting Powers and Duties of Local Authorities.

(i) Assimilation of Powers of Urban and Rural District Councils.

(ii) Such Urban Powers as may be deemed expedient to entrust to Rural District Councils should be conferred upon them generally by Statute. (See the Rural District Councils (Urban Powers) Order, 1931, and page 48 *ante*.)

(iii) Development of the Parochial Committee System.

*Part II. Matters Relating to the Constitution of Local Authorities.*

(1) Constitution of Electoral Divisions of Counties.

(2) Date of Urban District Council Elections.

(3) Appointment of Chairmen of Urban District Councils.

(4) Grants to Chairmen of Urban and Rural District Councils.

## CHAPTER IX

### THE BOROUGH COUNCIL

1. THE BOROUGH is probably the oldest local government area. The development of craftsmanship gave rise to the growth of Towns, i.e. compact centres of population, engaged mainly in industrial pursuits, though their inhabitants also carried on as by-industries the more primary and indispensable work of cattle-rearing and agriculture. After this it was found that the gathering together of the gilds in the town resulted in a new social development, viz. the City or self-governing municipality—the borough in the modern English sense.

A MUNICIPAL BOROUGH means a place the inhabitants whereof have been incorporated by Charter extending to that place and the inhabitants so incorporated the provisions of the Municipal Corporations Acts and the Local Government Act, 1933, relating to boroughs.

2. ESTABLISHMENT OF A BOROUGH. A Municipal Corporation is constituted by the grant of a Charter of Incorporation. The following procedure is necessary—

(1) A petition to the King is made by the council of an urban or rural district, who also advise the Minister of Health and the County Council of the petition. There is no statutory standard of population, or rateable value, necessary for a town to possess before applying for a Charter of Incorporation.

(2) The King refers the petition to the Privy Council, who appoint a small committee from their number to report. Minister of Health instructs an Inspector, who holds a local inquiry and makes a report. Should the inspector report favourably upon the petition a draft scheme is prepared by the petitioners for incorporating the new borough.

(3) The scheme is published in the *London Gazette*, and, if unopposed, within one month an Order in Council is issued, granting the Charter.

(4) Within the same period opposition may be lodged either by any local authority or by one-twentieth of the owners or rate-payers. In this event an Act of Parliament would be necessary before the borough could be created.

3. ADVANTAGES AND DISADVANTAGES OF MUNICIPAL GOVERNMENT.

#### ADVANTAGES—

(1) *Improved Status.* In the relation with the Central Departments of State, and other local authorities, the Borough carries

added status, and its opinions and requirements are more respected than those of a District Council. Moreover, a more progressive policy can be adopted with the relaxation of Central Control, when a District Council is elevated to the status of a Borough.

(2) *Added Dignity of Mayor.* A Borough possesses the added dignity of Mayor, who may be paid a salary in keeping with this position.

(3) *Aldermanic Bench.* The creation of an aldermanic bench tends towards a stability of function and a continuity of policy not possible when there is a periodical return to the electorate.

(4) *Councillors.* A dignified authority like the Borough will attract to its personnel a far better type of candidate than is usually found in the smaller district councils. Men and women with a greater sense of responsibility, and with a greater experience in affairs generally, are more willing to offer themselves for election in the case of a Borough Council.

(5) *Arms.* The right to adopt a coat-of-arms becomes the privilege of the Borough.

(6) *Freemen.* The Freemen of a Borough are created by the Charter, but the borough council reserves the right to appoint Honorary Freemen as a mark of appreciation for services rendered to the Borough or the State.

(7) *By-laws.* The Borough may frame their own by-laws for the good rule and government of the borough, e.g. in respect of street trading, obstructions, street nuisances, etc.

(8) *Magistrates.* The Borough may be granted, upon petition to the King, a separate Commission of the Peace with the consequent powers of appointing magistrates.

(9) *Stipendiary Magistrate* appointed without the necessity of a population of 25,000, as required in an urban district.

(10) *Audit.* Certain accounts are audited by borough auditors in lieu of the district auditors; but the borough auditors may be dispensed with and the district auditor or professional auditors appointed to audit all accounts.

(11) *Police.* The Borough may possess its own Police Force provided it has a population of 20,000.

(12) *Administration.* The Borough attracts a better type of official than is the case with the District Councils, which means that economies are made and considerable improvement obtained in the administration of the Borough.

#### DISADVANTAGES—

(1) *Status and Consequent Ceremonial.* The added status carries with it additional ceremonial considered to be unnecessary, expensive, and of little use to the borough as an administrative

body. For example, the increase in attendants on the Mayor, liveries, cars, etc.

(2) *The Mayor.* The Office of Mayor demands a greater hospitality on the part of that official, and a greater demand upon his time to fulfil the increased duties, all of which means expense.

(3) *Aldermanic Bench.* The Aldermanic system is considered undemocratic in view of the fact that the Aldermen are elected by the councillors and not by the electorate.

(4) *Audit.* The powers of abolishing the Ministry of Health audit may be a disadvantage. It is considered a good thing that all accounts should be open to disallowance and surcharge by the District Auditor.

(5) *Increase of Rates.* An increase in rates can be expected by the additional cost incurred for ceremonial purposes and newly acquired duties, etc.

(6) *Isolation.* With lost interest in many of the County affairs, the Borough loses contact which in the past operated for their good, and it tends to become exclusive and isolated. Ultimately, as a County Borough, isolation is complete.

#### 4. CONSTITUTION—

A borough is governed by a MUNICIPAL CORPORATION, which enjoys perpetual succession and a common seal. The root idea of a Corporation is that it is a body of individuals acting together for a common purpose, but having a legal existence apart from the individual existence of its members.

A Municipal Corporation means the body corporate constituted by the incorporation of the inhabitants of a borough; it consists of the Mayor, Aldermen and Burgesses.

A Burgess is a person enrolled upon the local government register of electors for the borough. By the Sixth Schedule (No. 2) of the Representation of the People Act, 1918, they are now known as local government electors.

Privileges of local government electors include the right to vote at borough elections and for elective auditors (if any), and in non-county boroughs to vote at county council elections also.

Duties of local government electors include serving upon juries and holding corporate office.

5. COUNCIL. A Municipal Corporation is capable of acting by a Council, consisting of the Mayor, Aldermen and Councillors.

(1) *Councillors* are elected by ballot for three years from 1st November in the year of election. The electors are the qualified local government electors of the borough.

(2) *Qualifications* and (3) *Disqualifications* are described in Chapter VI.

(4) The number of councillors is fixed by the charter. There are, as a rule, three councillors to each ward, one of them retiring usually from each ward annually. The number of councillors in the case of a municipal borough may be altered by an Order in Council. (Local Government Act, 1933, Sec. 25.)

(5) *Aldermen* are elected by the councillors from among the councillors or persons qualified to be councillors. They hold office for six years. One-half retire every three years and their successors are elected on the 9th November. The number is one-third the number of councillors. The only additional function of an alderman is to act as returning officer at the election of councillors for the ward to which he has been assigned by the Council.

(6) *The Mayor* is elected on the 9th November by the councillors and non-retiring aldermen from among the council or from persons qualified for election as councillors. Election is for one year. The mayor may receive a salary, and may be re-elected. In certain cities the mayor possesses the title of "Lord Mayor," a distinction conferred by the Crown, but the Home Secretary held in 1927 that this did not entitle the holder to be known as "Right Honourable," a designation to which the Lord Mayors of London and York and the Lord Provost of Edinburgh are alone entitled.

(7) *Meetings* held by a Borough Council include—

(a) An annual meeting and at least three others. (Local Government Act, 1933. Third Schedule, Part II, 1 (1).)

(b) Others as summoned by the Mayor, or any five members, or one-fourth of the Council, whichever is less.

6. COMMITTEES. The work is principally transacted by Committees, which are mainly appointed from among members of the Council.

(1) Co-optation to the extent of one-third is permitted except for Finance Committees.

(2) With certain exceptions, the acts of every Committee must be submitted to the Council for their approval.

(3) Committees do not possess the power to levy a rate or raise a loan.

7. POWERS AND DUTIES may be divided under heads as those of—

(1) A Borough Council, including the making of By-laws for the good rule and government of the borough.

(2) An Urban Sanitary Authority, as described in Chapters XII, XIII, XIV, and XVIII.

(3) Authority under the Adoptive Acts, as described in Chapter XV.

(4) Management of Trading Enterprises as described in Chapter XVI.

(5) Authority to undertake additional functions prescribed by general or local Acts of Parliament, e.g. Shops Acts, 1912 and 1913.

(6) Certain functions upon attaining the requisite population, e.g. the Naval and Military War Pensions, etc., Acts, 1915 to 1921.

(7) Powers under local Acts of Parliament, e.g. Birmingham Savings Bank.

#### 8. OFFICERS include—

(1) Town Clerk. { The offices must not be held by same person.

(2) Treasurer. } partners, or employees of one another.

(3) The usual officers required by an urban sanitary authority. (See Chapter VIII.)

(4) Such other officers as the Council think necessary.

#### 9. FINANCE—

(1) *Rates.* By the Rating and Valuation Act, 1925, the General Rate is levied to meet the deficiency in the General Rate Fund, and includes the precepts of all the spending authorities in the borough.

(2) *Loans* for borough purposes must be repaid within a period normally not exceeding sixty years. (Local Government Act, 1933, Eighth Schedule.) Other loans as prescribed by the respective enactments. Money may be raised by the issue of Stock under the Local Loans Act, 1875, the Local Government Act, 1933, Sec. 196 (1) (b), and under local Acts.

(3) *Accounts.* The Treasurer's accounts are made up yearly to the 31st March or such date as the Council, with the approval of the Minister of Health, may decide.

An abstract of the accounts must be published yearly, and may be purchased at a reasonable price.

#### (4) *Audit.*

(1) The accounts of the borough as a rating authority, the education accounts (if any), the poor law and motor taxation accounts in a county borough, and the probation officers' accounts (if any) are audited by the district auditor. Housing and police accounts (if any) are examined by the district auditor.

(2) Other accounts in a borough are audited by (a) the borough auditors; (b) professional auditors; or, (c) district auditor.

#### (3) The borough auditors consist of—

(a) elective auditors, being two persons elected by the local government electors of the borough on the 1st March

each year, from persons qualified to be, but not being, members of the council; and

(b) the Mayor's auditor, appointed each year, from among members of the council, by the mayor.

(4) Alternatively, the borough council may resolve to appoint an auditor or auditors from one of the seven professional bodies named in the Local Government Act, 1933, Sec. 239 (3) (b), in lieu of the borough auditors.

(5) In place of the borough auditors, instead of appointing professional auditors, the borough council may decide to extend the system of district audit to all their accounts.

#### 10. RIGHTS OF ELECTORS—See page 8.

#### 11. SPECIAL TYPES OF MUNICIPAL BOROUGHS.

There are three main classes, viz.—

(1) Boroughs possessing judicial functions.

(2) Boroughs possessing special functions according to population.

(3) Cities and towns which are counties in themselves.

(1) *Boroughs possessing Judicial functions, viz.—*

(a) Separate Commission of the Peace.

(b) Stipendiary Magistrate.

(c) Court of Quarter Sessions under a Recorder.

(d) Coroner.

(e) Court of Civil Jurisdiction.

(2) *Boroughs possessing special functions according to population, viz.—*

(a) 10,000 inhabitants or over—

(i) Authority under the Police, Diseases of Animals, and Weights and Measures Acts.

(ii) Elementary Education Authority subject to the provisions of the Education (Local Authorities) Act, 1931.

(iii) Appoint Allotments Committee under the Act, 1922.

(b) 20,000 inhabitants or over—

(i) Local Pension Authority under Old Age Pensions Acts

(ii) Power to apply for a separate Police Force.

(c) 40,000 inhabitants or over—

Food and Drugs Act, 1938..

(d) 50,000 inhabitants and over—

(i) National Health Insurance Committee.

(ii) Representatives on Local Committee under the Naval and Military War Pensions, etc., Acts, 1915 to 1921.

(iii) Representatives on Territorial Associations under the Territorial and Reserve Forces Act, 1907.

(e) 75,000 inhabitants and over—

Power to promote a private bill to constitute the borough a County Borough. If the application is granted, the borough, as a—

(f) County Borough, becomes almost entirely independent of the County Council including Local Education Authority for elementary and higher education. (See par. 14.)

(3) *Cities and Towns*, which, by ancient privilege, are Counties in themselves and include those possessing separate—

(a) Commission of the Peace.

(b) Court of Quarter Sessions.

(c) High Sheriff, appointed on 9th November, who acts independently of the High Sheriff for the County.

(d) The title of a city which is borne by certain boroughs is a purely titular distinction. It has no connection with the status of the borough in respect of local government, and confers no powers or privileges.

12. FREEMEN are persons entitled to be admitted in accordance with Part XIV of the Local Government Act, 1933, in respect of birth, servitude, or marriage, and who are admitted by the mayor and enrolled by the town clerk on the Freemen's Roll.

13. HONORARY FREEMEN are persons of distinction who have been admitted under the Local Government Act, 1933, Sec. 259, to the Freedom of the Borough. They possess no qualifications as local government electors.

14. THE FIRST REPORT OF THE ROYAL COMMISSION ON LOCAL GOVERNMENT was published in September, 1925, and recommended that

(a) all proposals for the constitution of County Boroughs should be made by private Bill; and

(b) that the population of a borough which should in future entitle the town council to make a proposal by private Bill for the constitution of the borough into a county borough should be 75,000.

Effect was given to this in the Local Government (County Boroughs and Adjustments) Act, 1926, now Local Government Act, 1933, Sec. 139.

15. ROYAL COMMISSIONERS on borough administration were appointed in 1935—

(1) To inquire into the co-ordination of boroughs on Tyneside; which reported in 1936; and

(2) To ascertain whether the existing status of Merthyr Tydfil as a County Borough should be continued and, if not,

what other arrangements should be made for its local administration with reference to its own interest and those of surrounding districts. The Commission reported in favour of reduction to non-county borough status. This has not yet been put into operation.

#### 16. FINAL REPORT OF THE ROYAL COMMISSION ON LOCAL GOVERNMENT, 1929.

##### *Part I. Functions of Local Authorities.*

The requirements of the Borough Funds Acts in regard to towns meetings and polls of electors should be repealed. (See Local Government Act, 1933, Sec. 255.)

##### *Part II. Matters Relating to the Constitution of Local Authorities.*

- (1) Creation of Boroughs.
- (2) Void By-elections of Town and County Councillors.

## CHAPTER X

### THE JUSTICE OF THE PEACE

1. THE Office of Justice of the Peace is one of great antiquity, dating from the time of the origin of the " King's Peace," which the holder of the office is commissioned to preserve.

2. APPOINTED by the Crown, the right of appointment being exercised by the Lord Chancellor, except in the County Palatine, where it is exercised by the Chancellor of the Duchy of Lancaster.

(a) Appointments to the County Commission of the Peace are made on the recommendation of the Lord Lieutenant of the County.

(b) Local Advisory Committees assist in these nominations, but

(c) The Lord Chancellor and the Chancellor of the Duchy are not bound to accept the recommendation of the Lord Lieutenant or of the City and Borough Advisory Committees.

(d) They may themselves appoint without such a recommendation, and are in no wise bound to accept the nomination. Certain boroughs possess a separate Commission of the Peace.

(e) Justices of the Peace are unpaid, except that the county sessions may pay their chairman and deputy chairman.

(f) Appointment is for life, so long as they retain the necessary qualifications, or are not removed for misconduct.

3. QUALIFICATIONS. While acting as such

(1) Justices must reside in, or within seven miles of, or occupy a house or warehouse or other property in the district.

(2) All property qualifications were abolished by the Justices of the Peace Act, 1906.

(3) Justices may be removed from the Commission by the Crown only when good cause is shown, e.g. misconduct.

(4) There are certain *ex-officio* Justices, viz.—

(a) The Mayor of a Borough is a Justice of the Peace for his year of office and for twelve months afterwards;

(b) The Chairman of a Rural or Urban District Council is, unless personally disqualified, *ex officio* a Justice of the Peace for the county within which his district is situated;

(c) The Chairman of a County Council is, by virtue of his office, a Justice of the Peace for the county;

(d) The Recorder of a Borough for the borough under the Municipal Corporations Act, 1882, Section 163;

(e) County Court Judge under Section 14 of the County Courts Act, 1888;

(f) The Mayor of a metropolitan borough during his term of office.

(5) The Sex Disqualification (Removal) Act, 1919, with certain provisos removes the disqualification of a person either by sex or marriage from

(a) the exercise of any public function; or

(b) being appointed to or holding any civil or judicial office or post; or

(c) entering or assuming or carrying on any civil profession or vocation or for admission to any incorporated society (whether incorporated by Royal Charter or otherwise); and

(d) being exempted by sex or marriage from the liability to serve as a juror.

#### 4. DUTIES.

(a) Judicial when they sit in

(1) Petty Sessions; or

(2) Court of Summary Jurisdiction; or

(3) Court of Quarter Sessions.

By the Administration of Justice (Miscellaneous Provisions) Act, 1938, they have power to appoint a legally qualified chairman or deputy chairman, and pay him a salary.

(b) Duties relating to local government, including the following:

(1) Control of persons and of premises licensed for

(a) the sale of intoxicating liquor by retail;

(b) music, singing and dancing, billiards playing, in places where Part IV of the Public Health Acts Amendment Act, 1890, has been adopted by the local authority.

(2) Duties under Cinematograph Act, 1909, and Explosives Act, 1875, where they have been delegated to the Justices.

(3) Registration of clubs in which intoxicating liquor is supplied to members or their guests.

(4) Duties under the Lunacy Acts, 1890 to 1922, Mental Deficiency Acts, 1913 to 1927, and Mental Treatment Act, 1930.

(5) Duties under Volunteers Act, 1863, Army Act, 1881, and Military Manoeuvres Act, 1897.

(6) Appointment of (a) parish constables where required; and (b) special constables under the Special Constables Acts.

(7) Appointment of probation officers under the Probation of Offenders Act, 1907.

(8) Appointment of collecting officer under the Affiliation Orders Act, 1914, and Section 30 of the Criminal Justice Administration Act, 1914. The Justices' Clerk is usually appointed.

(9) Appeals against inclusion in lists of jurors in counties, and in boroughs not having a separate Court of Quarter Sessions or a Borough Civil Court.

(10) In counties, appointment of one-half of the members of the Standing Joint Committee for the control of the county constabulary or other joint matters.

(11) Appointment of Visiting Committee of Prisons and Mental Hospitals.

(12) Power to inspect any weights and measures under the Weights and Measures Acts.

(13) Licensing of moneylenders under the Moneylenders Act, 1927.

(14) The Sunday Entertainments Act, 1932, enables licences to be granted for the use of places on Sundays for certain entertainments and for debates.

(15) The Money Payments (Justices Procedure) Act, 1935, gives magistrates discretion respecting committals to prison for non-payment of fines, rates, etc.

(16) Betting and Lotteries Act, 1934, on delegation by county council to Standing Joint Committee (licensing of dog-racing tracks).

5. STIPENDIARY MAGISTRATE may be appointed by the Crown on the recommendation of the Home Secretary upon the petition of the council of

(a) Any borough; or

(b) Urban district having a population of not less than 25,000.

(c) He must be a barrister of not less than seven years' standing. His salary is paid out of the rates. He has the power of two Justices of the Peace (i.e. Court of Petty Sessions).

6. THE MAGISTRATES' CLERK is appointed by the Justices, subject to confirmation by the Home Secretary. His duties are to assist the Justices upon matters of law and practice, and to keep all the books and records required by the Summary Jurisdiction and Indictable Offences Acts—

(a) under the Municipal Corporations Act, 1882;

(b) in accordance with the Stipendiary Magistrates Act, 1865.

## CHAPTER XI

### THE COUNTY COUNCIL

1. THE COUNTY was, until 1888, governed by the Justices of the Peace (or the county magistrates, as they were sometimes called) meeting in Quarter Sessions. The purpose of the Local Government Act, 1888, was to transfer from the Justices of the Peace in Quarter Sessions certain administrative powers which had been conferred upon them by statute over a period of several centuries through the administrative discretion of statutes dating from the Tudor period.

2. THE ADMINISTRATIVE COUNTY means the area for which a County Council is elected in pursuance of the Local Government Act, 1933. This area does not include a County Borough, except where expressly mentioned. The area of the County is further sub-divided into non-county (i.e. municipal) boroughs, urban districts, rural districts, and parishes; and also into hundreds, quarter sessions, and petty sessional districts.

#### 3. CONSTITUTION

The COUNTY COUNCIL is the local authority for the administrative county. It is a corporate body with perpetual succession and a common seal, and consists of the Chairman, Aldermen, and Councillors.

(1) *County Councillors* are elected by ballot every three years. The electors are the local government electors for all parts of the county except county boroughs.

(a) The qualifications and disqualifications for voting at elections of, and for service as, a County Councillor are described in Chapter VI.

(b) One Councillor is elected for each Electoral Division, and no elector can vote at a general election for the council in more than one Division of a County, although qualified.

(c) The number of Councillors is regulated by the Secretary of State.

(d) Election is on the 8th March or such other day between the 1st and 8th March as the County Council may fix.

(2) *County Aldermen* are elected by the Councillors from amongst the Councillors or persons qualified to be Councillors and hold office for six years. One-half their number retire every three years and their successors are elected at the annual meeting. Their number is one-third the number of Councillors.

(3) *The Chairman* is elected in a manner similar to that of the Mayor of a Borough. (See Chapter IX.) He is *ex officio* a

Justice of the Peace for the County during his term of office, and may receive a salary.

4. MEETINGS. As a rule the County Council holds only its statutory meetings, viz., an annual meeting and three other meetings. The first meeting after the triennial election takes place between the 16th March and the 22nd March, and in any other year in March, April, or May. (Local Government Act, 1933, Third Sch. Part I.)

5. COMMITTEES. The work is principally transacted by Committees, who usually report certain matters to the Council. In some cases Committees have executive powers. Committees are of two kinds: (1) Ordinary, and (2) Joint.

(1) *Ordinary Committees* are of two kinds: (a) Statutory, and (b) Standing.

(a) *Statutory Committees* include—

- (i) Finance, under Local Government Act, 1933.
- (ii) Education, under Education Act, 1921.
- (iii) Public Assistance, and Guardians, under the Poor Law Act, 1930.
- (iv) Small Holdings, under Small Holdings and Allotments Act, 1908 (now a Sub-Committee of Agriculture Committee).
- (v) Local Pensions, under the Old Age Pensions Act, 1936.
- (vi) Visiting Committee, under Lunacy Act, 1890.
- (vii) Shops Act, under the Shops Acts, 1912 to 1934.
- (viii) Care of the Mentally Defective, under the Mental Deficiency Acts, 1913 to 1927, and Mental Treatment Act, 1930.
- (ix) Local War Pensions, under the Naval and Military War Pensions, etc., Acts, 1915 to 1921.
- (x) Maternity and Child Welfare, under the Public Health Act, 1936, Sec. 201.
- (xi) Agriculture, under Part III of the Ministry of Agriculture and Fisheries Act, 1919, which provides also for a Diseases of Animals Sub-Committee.
- (xii) Valuation, under the Rating and Valuation Act, 1925.

(b) *Standing Committees* depend upon the functions of the Council, but usually include—

- (i) County Roads and Bridges.
- (ii) Parliamentary.
- (iii) Local Government.
- (iv) Weights and Measures.
- (v) General Purposes or Executive.
- (vi) Betting and Lotteries Act, 1934.
- (vii) Civil Defence (Air Raid Precautions) Act, 1937.

(2) *Joint Committees* are those whose functions are not solely the concern of the council of the county, but also of other local authorities. These authorities are represented on the Joint Committees for concerted action. They comprise those appointed to administer certain Acts, and usually include—

(a) Standing Joint Committee for County Police and other purposes. (See Chapter XVII.)

(b) Mental Hospitals Visiting Committee. (See Chapter XXIV.)

(c) Inebriates Act Committee.

(d) Sea and River Conservancy.

(e) River Pollution Prevention.

(f) Joint Vagrancy Committees.

(g) Town and Country Planning. (See Chapter XIV.)

The County Council appoints representatives upon—

(i) the County Insurance Committee under the National Health Insurance Acts.

(ii) Any Catchment Board set up under the Land Drainage Act, 1930.

#### 6. POWERS AND DUTIES are of two kinds, viz.—

(1) *The direct functions*, indicated by the names of the Committees given above, may be said to include—

(a) Public Health, Housing, and Planning.

(b) Highways, Streets, and Bridges.

(c) Police, jointly with Justices in Quarter Sessions.

(d) Education: Elementary and Higher.

(e) Registration and Licensing.

(f) Economic and Social, including Public Assistance, Old Age Pensions, National Health Insurance, etc.

(g) Powers to promote or oppose Bills in Parliament in accordance with the Local Government Act, 1933, Sec. 253 to 255.

(h) Miscellaneous, including management or assistance of Light Railways; protection of wild birds, etc.

(2) *Control* by the County Council extends to all other local authorities in inverse ratio to their powers. That is to say, the control over the Parish Meeting and Parish Council is more extensive than that exercised over the non-county Borough Council, and the control over the Rural District Council more complete than that over the Urban District Council.

#### 7. OFFICERS include those—

(a) Appointed by the Standing Joint Committee—

(1) Chief Constable. (2) Clerk of the Peace.

(b) Appointed by County Council—

(1) Clerk, since the Local Government (Clerks) Act, 1931.

- (2) Treasurer. (5) Public Analyst.
- (3) Surveyor. (6) Coroner.
- (4) Medical Officer of Health (7) Director or Secretary for Education.
- (8) Inspectors to comply with requirements of the public health and other enactments;
- (9) Public Assistance Officers; and
- (10) Such other officers as the Council think necessary.
- (c) Judicial Officers for judicial and national functions are *not* appointed by the County Council—
  - (1) Lord Lieutenant nominated for life by the Crown.
  - (2) Sheriff selected annually by the King in Council.
  - (3) Justice of the Peace. (See Chapter X.)

8. FINANCE COMMITTEE must be appointed in accordance with Local Government Act, 1933, Sec. 86. (a) Orders for payment must be in pursuance of a resolution of the council passed on recommendation of the Committee (b) No costs, debt, or liability exceeding £50 shall be incurred except upon a resolution of the council passed on an estimate submitted by the Committee.

#### 9. FINANCE.

(1) *Rates.* The Rating and Valuation Act, 1925, provided for the expenses of the county to be met out of the General Rate by precept on the Rating Authorities.

(2) *Loans.* For county purposes in general, e.g. a Shire Hall, the maximum period for repayment of a loan is 60 years. This maximum is extended for certain purposes, such as for the acquisition of land for small holdings and for housing purposes, when it is 80 years. (Local Government Act, 1933, Eighth Schedule.)

(3) *Accounts* are made up yearly to 31st March.  
 (4) *Audit* by the District Auditor of the Ministry of Health.  
 (5) *The Local Government (Members' Travelling Expenses) Act*, 1937, extends the power of County Councils to defray travelling expenses of members of Assessment Committees, Guardians Committees, Joint Committees and Joint Boards.

(6) *The County Councils Association (Amendment) Act*, 1937, increases to £157 10s. per annum the maximum amount which a council may contribute to the Association.

#### 10. RIGHTS OF ELECTORS. See page 8.

11. LAND REGISTRATION ACTS, 1925 to 1936, provide that the King may, by Order in Council, declare that on and after a certain day specified in the Order, registration of title to land is to be compulsory on sale. The Acts are also adoptive.

## 12. FINAL REPORT OF THE ROYAL COMMISSION ON LOCAL GOVERNMENT, 1929.

*Part I. Functions of Local Authorities.*

- (1) Administration of the Weights and Measures Act.
- (2) Licensing of Theatres, Cinematograph Exhibitions, and Places for Music and Dancing.
- (3) Reports to County Councils under the Allotments Acts.
- (4) Relations between County Councils and Standing Joint Committees in regard to County Buildings and Finance.

*Part II. Matters relating to the Constitution of Local Authorities.*

Agricultural Committees should no longer be compulsory.

*Part III. Local Government Officers, Offices of Clerk of the Peace and Clerk of the County Council.*

Legislation should proceed on the lines of an agreed Bill which was subsequently introduced into Parliament. (See Local Government (Clerks) Act, 1931, *ante.*)

This subject is dealt with fully in *County Councils: Their Powers and Duties.* (Pitman.)

## SECTION III

### Public Health, Public Undertakings and Public Protection

#### CHAPTER XII

#### PUBLIC HEALTH

##### INTRODUCTION

1. **EARLY SANITARY LEGISLATION** was in the form of local legislation introduced by progressive towns.

The Industrial Revolution emphasized the necessity for collective action, with the result that, under the influence of the followers of Jeremy Bentham, certain Model Clauses Acts were passed between 1845 and 1847. The Public Health Act, 1848, was the first general Act and was largely based on local Acts.

2. **THE PUBLIC HEALTH ACT, 1875**, was itself a consolidating and amending Act enacted in furtherance of Disraeli's famous slogan: *Sanitas sanitatum, omnia sanitas*. It was, however, based upon the reforms recommended by the Royal Sanitary Commission of 1869-71. Various amendments were subsequently passed, principally those of 1890, 1907, and 1925, but the Great War delayed progress.

3. **THE LOCAL GOVERNMENT AND PUBLIC HEALTH CONSOLIDATION COMMITTEE** was appointed in 1930 by the Minister of Health, with the following terms of reference—

“with a view to the consolidation of the enactments applying to England and Wales (exclusive of London) and dealing with

“(a) Local Authorities and Local Government; and

“(b) matters relating to the Public Health;

“to consider under what heads these enactments should be grouped in consolidating legislation, and what amendments of the existing law are desirable for facilitating consolidation and securing simplicity, uniformity, and conciseness.”

The Committee was presided over by the late Viscount Chelmsford, and subsequent to his death, by the Rt. Hon. the Lord Addington. The Committee produced an Interim Report in 1933, together with a Draft Bill, which became the Local Government Act, 1933. The Committee subsequently continued its sittings.

4. **THE SECOND INTERIM REPORT** was presented by the Minister of Health to Parliament in January, 1936. The Report was accompanied by a Draft Bill entitled “A Bill to consolidate with amendments certain enactments relating to Public Health.”

This Report contained a full statement of the principles upon which their work had been done and of the more important amendments of the Law which they recommended in the interests of simplification and clarity. In addition, an Appendix to the Report drew attention in great detail to the various drafting and other amendments made and the reasons which had led the Committee to propose alterations of the law. The proposals with regard to by-laws were, in a large measure, founded on a valuable report made by a Departmental Committee in 1918.

5. CLASSIFICATION OF PUBLIC HEALTH ACTS. The various provisions of the Acts may be roughly classified as—

- (a) provisions of a strictly public health character relating to the prevention and treatment of disease, that is, as regards environment, to such matters as drains and sewers, buildings, water supply and the abatement of nuisances, and as regards personal hygiene to such matters as the provision of hospitals, maternity centres, etc.;
- (b) provisions with regard to streets and building lines;
- (c) provisions dealing with food;
- (d) provisions dealing with public amenities—recreation grounds, open spaces, etc.;
- (e) provisions as to the licensing of hackney carriages, pleasure boats, servants' registries, etc.;
- (f) provisions dealing with burial and cremation;
- (g) provisions of a "police" character, e.g. offences in streets and places of public resort;
- (h) provisions dealing with river pollution.

The Committee decided to deal immediately only with the first of these, working on the principle of producing a series of Bills the longest of which would not exceed some 350 clauses. The Third Interim Report was accompanied by a Draft Bill which became the Food and Drugs Act, 1938. In April, 1939, the Minister of Health announced that the deliberations of the Committee had been suspended.

6. PRINCIPLES OF THE PUBLIC HEALTH ACT, 1936. This Act is by no means just another Consolidation Act. It contains more amendments of substance than the Local Government Act, 1933. On the subject of sewers, for instance, its proposals are revolutionary. It incorporates, too, many of the provisions which have become common form in local Acts. On the consolidation side it necessarily leaves outstanding many of the provisions of the Public Health Acts proper. For instance, of the Public Health Act, 1875, it left about 108 sections unrepealed. Of the other Public Health Acts proper, only four were repealed, namely—

The Public Health (Water) Act, 1878;  
 The Public Health (Fruit Pickers' Lodgings) Act, 1882;  
 The Public Health (Ships, etc.) Act, 1885; and  
 The Housing of the Working Classes Act, 1885.

To these must be added certain Acts which are commonly classified as Public Health Acts, viz.—

The Public Health Act, 1896;  
 The Public Health (Ports) Act, 1896;  
 The Cleansing of Person Act, 1897;  
 The Public Health Act, 1904;  
 The Public Health (Prevention and Treatment of Diseases) Act, 1913;  
 The Public Health (Tuberculosis) Act, 1921; and  
 The Public Health (Officers) Act, 1921.

Other Acts wholly repealed are—

The Baths and Washhouses Acts;  
 The Canal Boats Acts;  
 The Infectious Disease (Notification) Acts;  
 The Notification of Births Acts;  
 The Maternity and Child Welfare Act, 1918; and  
 The Nursing Homes Registration Act, 1927.

All these statutes, together with the provisions of some thirty other Acts, were repealed as from 1st October, 1937. The Isolation Hospitals Acts, 1893 to 1901, will be repealed from 1st October, 1939.

#### THE PUBLIC HEALTH ACT, 1936

The Act comprises twelve parts of 347 sections and three schedules. It received the Royal Assent on the 31st July, 1936, and came into operation on the 1st October, 1937.

The twelve parts are as follows—

- Part I. Local Administration.
- Part II. Sanitation and Buildings.
- Part III. Nuisances and Offensive Trades.
- Part IV. Water Supply.
- Part V. Prevention, Notification and Treatment of Disease.
- Part VI. Hospitals, Nursing Homes, etc.
- Part VII. Notification of Births; Maternity and Child Welfare and Child Life Protection.
- Part VIII. Baths, Washhouses and Bathing Places.
- Part IX. Common Lodging-houses.
- Part X. Canal Boats.
- Part XI. Miscellaneous.
- Part XII. General.

There are three schedules, viz.—

First Schedule—Provisions as to Medical Officers of Health and Sanitary Inspectors of Port Health Districts.

Second Schedule—Sections of Act extending to London for certain purposes.

Third Schedule—Enactments repealed.

#### CENTRAL AUTHORITY.

“Minister” means the Minister of Health. (Sec. 343 (1).)

### PART I. LOCAL ADMINISTRATION

The passing of the Local Government Act, 1933, necessarily restricts the scope of this Part.

LOCAL AUTHORITIES. The local authorities are—outside the Metropolis—

- (i) County borough: the council of the borough.
- (ii) Administrative county—
  - (a) County council as respects certain matters.
  - (b) Non-county borough councils. { as respects all
  - (c) Urban district or rural district councils. } other matters.

Parish councils or parish meetings may be designated by the rural district council for sanitary purposes. (Sec. 1.)

#### COMMITTEES.

(1) Urban district, rural district, and parish councils may authorize any committee under the Public Health Acts to exercise all the powers of the council (except raising a loan, making a rate, or entering into a contract), including the institution of legal proceedings. (Local Government Act, 1933, Sec. 85.)

(2) Rural district councils may form parochial committees, wholly or partly from their own number, and where partly from other persons, such persons shall be selected from the parish council of the parish concerned; or, where there is no parish council from the local government electors of the parish. (*Ibid.* Sec. 87.)

(3) The councils of all counties and county boroughs with a population of 10,000 must appoint a committee to administer the Diseases of Animals Act, 1894, Sec. 31.

(4) A Maternity and Child Welfare Committee must be appointed by every welfare authority. (Public Health Act, 1936, Sec. 201.)

PORT HEALTH AUTHORITIES previously called the Port Sanitary Authorities, are constituted for a port health district consisting of the whole or any part of a port.

A Port Health Authority may be either—

- (a) one riparian authority; or
- (b) a joint board, consisting of representatives of two or more riparian authorities. (Sec. 2.)

JOINT BOARDS AND JOINT COMMITTEES OF COUNCILS OF COUNTIES AND COUNTY BOROUGHS for the purpose of facilitating co-operation.

The Act gives power for the constitution and dissolution of Special Purposes Areas in rural districts.

The power of the Ministry to give urban powers to rural authorities is conferred by this Part. It will be smaller in scope because many of the provisions of the existing Acts are applied directly to both urban and rural authorities.

Many of the provisions of the former Adoptive Acts are granted in such a way that formal adoption will not be necessary.

## PART II. SANITATION AND BUILDINGS

This part of the Act contains some very important amendments of the law, particularly with regard to sewers and drains.

**SEWERS AND SEWAGE DISPOSAL.** This Part of the Act contains the sanitary provisions and deals almost exclusively with sewerage, drainage, scavenging, cleansing.

**DEFINITIONS.** *Drain* means a drain used for the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage;

*Sewer* does not include a drain as defined in this section but, save as aforesaid, includes all sewers and drains used for the drainage of buildings and yards appurtenant to buildings;

*Private sewer* means a sewer which is not a public sewer;

*Public sewer* has the meaning assigned to it in Section 20 of the Act. (Sec. 343.)

Private sewers and drains and cess-pools are also provided for.

Sewers constructed after the commencement of the Act will not vest in a local authority until formally taken over by them in accordance with machinery provided by Sec. 17.

Sanitary conveniences for buildings. Supplemental provisions as to drains, sanitary conveniences, cess-pools, etc.

Provisions are made with respect to buildings.

By-laws may be made with respect to buildings and sanitation.

Provisions for removal of refuse, scavenging, keeping of animals, etc.

Filthy or verminous premises or articles, and verminous persons, may be cleansed.

Public sanitary conveniences may be provided.

General provisions include an Interpretation Section 90.

## PART III. NUISANCES AND OFFENSIVE TRADES

**Nuisances.** This Part determines the duty of the local authority to inspect its district for detection of nuisances. It enumerates the statutory nuisances which may be dealt with summarily. It makes detailed provisions with respect to smoke nuisance including

power of local authority to investigate problems relating to atmospheric pollution.

*Offensive Trades.* Restrictions are imposed on establishment of offensive trades in Urban Districts. Provision is made for by-laws as to certain trades in Urban Districts.

#### PART IV. WATER SUPPLY

This Part sets out the general powers of local authorities for supplying districts with water and providing water works and other sources of supply. It also provides for the incorporation of certain provisions of Waterworks Clauses Acts. It contains many amendments of detail, but not many important changes.

It provides for the vesting of public wells, pumps, etc., in the local authority; gives power to parish councils to utilize wells, springs, or streams for obtaining water; enables local authorities to make charges for water and to charge by meter for supply to certain premises and for certain purposes. It enables by-laws to be made for preventing waste, etc., of water, and power to inspect and test meters and other fittings. It gives power to local authorities to prohibit the occupation of new houses without sufficient water supply. It makes provision for the protection of the public from polluted water and deals with insanitary cisterns.

In April, 1937, the Minister of Health appointed a Central Water Advisory Committee (Chairman, Lord Milne) to consider *inter alia* measures for modernizing the law relating to water supplies and the conservation and use of water. In April, 1939, a second Interim Report was issued together with a Draft Water Undertakings Bill, which aims at carrying out the recommendations of the Committee.

#### PART V. PREVENTION, NOTIFICATION, AND TREATMENT OF DISEASE

This Part contains little that is new, but includes—

REGULATIONS for the Prevention and Treatment of Infectious Disease, etc., which may apply, with or without modifications, to any notifiable disease.

##### NOTIFICATION OF DISEASES.

(1) Notifiable disease means any of the following diseases, viz.: smallpox, cholera, diphtheria, membranous croup, erysipelas, scarlatina, or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric or relapsing fever. (Sec. 343.)

(2) The Minister of Health may issue an order extending the Act to other diseases. Any local authority may resolve to include other diseases subject to the approval of the Minister. As the

result of action taken under the similar power which obtained before the passing of the Act, the Act applies to plague, pulmonary tuberculosis, ophthalmia neonatorum, puerperal pyrexia, and measles. (Sec. 147.)

(3) Provisions for preventing the spreading of infection—

(a) penalty on exposure of persons and articles liable to convey notifiable disease;

(b) restrictions on (a) sending or taking infected articles to laundries or public washhouses; (b) sales, etc., by persons collecting or dealing in rags, bones or similar articles;

(c) prohibition of home work on premises where a notifiable disease exists;

(d) provisions as to—

(i) library books;

(ii) letting of houses after case of notifiable disease;

(iii) use of public conveyances by persons suffering from notifiable disease.

(4) Provisions with respect to dead bodies including power of—

(1) Minister to make regulations as to disposal of dead bodies;

(2) Justice to order dead body to be removed to mortuary or buried forthwith.

(5) Provisions as to disinfection of premises and articles, and the removal of infected persons.

PROVISIONS AS TO TREATMENT OF TUBERCULOSIS. It is the duty of the council of every county and county borough to make adequate arrangements for the treatment of persons in their county or borough who are suffering from tuberculosis. Such treatment must be at or in dispensaries, sanatoria, and other institutions approved by the Minister of Health.

A Court of Summary Jurisdiction may order the removal to hospital of infectious persons suffering from tuberculosis of the respiratory tract.

The council of a county or county borough may make such arrangements as they think desirable for the after-care of persons who have suffered from tuberculosis.

PROVISIONS AS TO BLINDNESS including power of County councils and local authorities to make arrangements for assisting in the prevention of blindness and for the treatment of persons who are suffering from diseases of the eyes.

MISCELLANEOUS provisions include power of local authority to—

(1) provide temporary supply of medicine and medical assistance for the poor inhabitants of the district;

(2) provide nursing attendance in certain cases;

(3) arrange for publication within their area of information or for delivery of lectures, etc. relating to health or disease.

## PART VI. HOSPITALS, NURSING HOMES, ETC.

**HOSPITALS.** The important change in this Part of the Act is the prospective total abolition by the Minister before the expiration of two years from the commencement of the Act of the separate Committees set up under Isolation Hospitals Act and the substitution therefor of Joint Hospital Boards.

A county council or local authority may provide hospital accommodation for persons who are sick.

In the case of a patient who becomes an inmate of an institution for the purpose of receiving treatment for infectious disease, a county council or local authority may, and in the case of any other patient maintained by them in an institution shall, recover from the patient or from any person legally liable to maintain him, or from his estate, if he has died, any expenses incurred by the council or authority in providing for his maintenance in the institution not being expenses recoverable from any other source.

The Act applies the Local Government Act, 1929, Sec. 63, which provides that a survey of the hospital accommodation for the treatment of infectious disease provided for districts wholly or partly in the county shall be made by the county council.

The county council shall prepare a scheme to provide or cause to be provided in any district within their county a hospital for the reception of patients suffering from infectious diseases.

**NURSING HOMES.** This Part re-enacts the existing law as contained in the Nursing Homes Registration Act, 1927. It enables a local authority to register and to inspect nursing homes.

Laboratories, ambulances, mortuaries, etc., may be provided by a county council or a local authority.

## PART VII. NOTIFICATION OF BIRTHS ; MATERNITY AND CHILD WELFARE AND CHILD PROTECTION

This Part provides for the constitution of Welfare Authorities being the council of a county borough or county district.

**NOTIFICATION OF BIRTHS.** It provides for the early notification of births to the medical officer of health.

**MATERNITY AND CHILD WELFARE COMMITTEE** must be appointed by every Welfare Authority. Power is given to the Welfare Authority to make arrangements for the care of expectant and nursing mothers, and of children who have not attained the age of five years and are not being educated in schools recognized by the Board of Education.

It prohibits the employment of women in factories or workshops within four weeks after childbirth.

**CHILD LIFE PROTECTION** is in substitution for the Infant Life Protection provisions originally contained in Part I of the Children

Act, 1908, which, although amended by the Children and Young Persons Act, 1932, were not consolidated in the Children and Young Persons Act, 1933.

MATERNITY LEGISLATION. See page 79.

#### PART VIII. BATHS, WASHHOUSES, AND BATHING PLACES

PROVISION OF BATHS, etc. Power is given to the local authority to provide baths, bathing places, and washhouses; to make charges for the use of baths, etc.; to make by-laws for the regulation of baths, etc.

PUBLIC BATHING must be regulated by means of by-laws; and provision must be made for life-saving apparatus and bathing huts, etc.

SWIMMING BATHS AND BATHING POOLS under private management are to be controlled by the local authority by means of by-laws. (Sec. 233.)

#### PART IX. COMMON LODGING-HOUSES

This Part virtually consolidates the Law on the subject. No person may keep a Common Lodging-House unless registered in respect thereof. Every local authority must keep a Register of Common Lodging-House Keepers and their Houses.

#### PART X. CANAL BOATS

This Part makes provision for registering, and enforcing provisions as to, canal boats.

Canal boats used as dwellings must be registered by the local authority, and the Minister is required to make regulations with respect to the registration and such regulations must be laid before Parliament.

This Part of the Act applies to London. (Sec. 257.)

#### PART XI. MISCELLANEOUS

This Part includes regulation of water-courses, ditches, ponds, etc. Power is given to parish councils to deal with ponds, ditches, etc. It provides for the application to ships and boats of certain provisions of the Act.

The provisions of the Act respecting by-laws relating to nuisances are applied to nuisances arising from tents, vans, etc.

MOVEABLE DWELLINGS. The new provisions empower local authorities to grant licences authorizing persons to allow land occupied by them within the district to be used as sites for

Moveable Dwellings; and licences authorizing persons to erect or station, and use such dwellings within the district.

By-laws may be made as to hop-pickers and persons engaged in similar work.

## PART XII. GENERAL

This Part contains a number of important amendments of detail, including—

POWER OF COUNCILS to combine for any of these functions under the Act; to execute works on behalf of owners or occupiers.

BREAKING OPEN OF STREETS: provisions as to.

NOTICES, ETC.,: provisions as to serving.

ENTRY AND OBSTRUCTIONS. Power to enter premises; and penalty for obstructing the execution of the Act.

NOTICES requiring the execution of works: Provisions as to appeals against and the enforcement of notices requiring execution of works.

PROVISION AS TO RECOVERY OF EXPENSES, ETC. Certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments, recovery of expenses, etc.

PROSECUTION OF OFFENCES, ETC., including summary proceedings for offences.

APPEALS AND OTHER APPLICATIONS TO COURTS OF SUMMARY JURISDICTION, AND APPEALS TO QUARTER SESSIONS against decisions of Justices.

ARBITRATION shall be by reference to a single arbitrator.

PROTECTION OF MEMBERS AND OFFICERS of local authorities, joint boards, and port health authorities from personal liability.

COMPULSORY PURCHASE of land by means of Provisional Orders.

EXPENSES AND BORROWING, including contributions by county councils to schemes of sewerage, water supply, etc.; special expenses of rural authority; power to borrow on sewage land and plant.

POWER OF THE MINISTER OF HEALTH to confirm by-laws; to apply provisions to Joint Boards; hold local inquiries, etc.

REGULATIONS. Provisions as to regulations require them to be laid before Parliament.

GENERAL PROVISIONS as to transfer of property and liabilities and transfer, compensation, etc., of Officers.

RELINQUISHMENT OF FUNCTIONS by district councils; and transfer of powers and duties to county councils or Minister.

SAVINGS with regard to certain bodies; and power to apply provisions of the Act to Crown Property.

INTERPRETATION, REPEALS, ETC., including application of portions of Act to London.

### OTHER PUBLIC HEALTH ACTS

Other Public Health Acts have been passed supplementing and extending the powers of local sanitary authorities. The following are typical—

(1) THE HOUSING ACTS, and the Small Dwellings Acquisition Acts, are dealt with in Chapter XIII.

(2) THE PRIVATE STREET WORKS ACT, 1892, provides an alternative method to the Public Health Act, 1875, of making up private streets, and is an Adoptive Act. It is dealt with in Chapter XVIII.

(3) THE PUBLIC HEALTH (INTERMENTS) ACT, 1879, is an Adoptive Act and enables a local authority to acquire, construct, and maintain a cemetery either wholly or partly within or without its district.

(4) THE FACTORIES ACT, 1937, contains powers respecting the sanitary conditions of factories, workshops, and workplaces; the prevention of overcrowding; and the regulation of dangerous and unhealthy industries.

(5) THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1907, is adoptive by either an urban or a rural sanitary authority, and is construed as one with the Public Health Acts. The Act is divided into ten parts, viz.—

Part I. General; Part II. Streets and Buildings; Part III. Sanitary Provisions; Part IV. Infectious Diseases; Part V. Common Lodging-houses; Part VI. Recreation Grounds; Part VII. Police; Part VIII. Fire Brigade; Part IX. Sky Signs; Part X. Miscellaneous.

The following are unrepealed by the Public Health Act, 1936—

Part II. Streets and Buildings.

Part VI. Recreation Grounds.

Part VII. Police Regulations.

Part IX. Sky Signs.

(6) THE BLIND PERSONS ACTS, 1920 and 1938, makes county and county borough councils responsible for the general care and training of the blind. The Blind Persons Act, 1938, provides that all assistance to blind persons other than institutional and medical treatment must be provided under the Blind Persons Acts and not under the Poor Law.

(7) THE PUBLIC HEALTH ACT, 1925, contains unrepealed provisions relating to—

Part II. Streets and Buildings.

Enables local authorities to make by-laws for the prevention of danger or obstruction to

persons from apparatus in connection with wireless installation.

Part VI. Recreation Grounds.

Part VIII. Miscellaneous, including: Parking Places (Sec. 68); Playing Fields (Sec. 69); Entertainments (Sec. 70); Traffic Regulation (Sec. 74 to 76); Interest on Expenses (Sec. 77); Power to Lay Gas Pipes in Private Streets (Sec. 80); Contributions to Street Works (Sec. 81); Adoption of Private Streets (Sec. 82); Street Improvements (Sec. 83); and List of Repairable Streets (Sec. 84).

(8) THE LEAD PAINT (PROTECTION AGAINST POISONING) ACT, 1926, makes better provision for the protection of persons employed in, or in connection with, the painting of buildings (including fixtures).

(9) THE RAG FLOCK ACT, 1911, Amendment Act, 1928, amends the Rag Flock Act, 1911, by declaring that the expression "flock manufactured from rags" means flock which has been produced wholly or partly by tearing up woven or knitted or felted materials whether old or new, but does not include flock obtained wholly in the process of scouring and finishing of newly woven or newly knitted or newly felted fabrics.

(10) THE PHARMACY AND POISONS ACT, 1933. Local authorities (London County Council, Metropolitan Borough Councils, County Borough Councils, and County Councils) are responsible for registration of dealers and inspection of shops at which poisons are sold. Chemists' shops are inspected by pharmacists appointed by the Pharmaceutical Society and only listed sellers' premises by the local authorities.

(11) THE PUBLIC HEALTH (DRAINAGE OF PREMISES) ACT, 1937, confers a right, under certain conditions, to discharge trade effluent into sewers.

(12) THE FOOD AND DRUGS ACT, 1938, consolidates with amendments the law on the subject. It deals with the registration of dairymen; the issue of licences for the use of special designations of milk; the establishment of markets, slaughterhouses, and cold-air stores.

(13) CANCER ACT, 1939. Local authorities are required to submit to the Minister of Health schemes showing their arrangements for ensuring that all patients shall receive whatever treatment is best fitted to their condition, and these schemes will be worked out after consultation with the voluntary hospitals and medical practitioners in the area and with the Radium Commission.

## MATERNITY LEGISLATION

(1) THE MIDWIVES ACT, 1902, provided that after 1905, no woman not certificated under the Act should use the name of midwife, and that, after April, 1910, no woman not certificated under the Act should habitually and for gain attend women in childbirth, other than under the directions of a qualified medical practitioner. The Central Midwives Board was established.

(2) THE MIDWIVES ACT, 1918, provided that the local supervising authority might aid the training of midwives, whether within or without their area, and make grants for the purpose.

(3) THE MATERNITY AND CHILD WELFARE ACT, 1918, required the local authority to appoint a Maternity and Child Welfare Committee. Subject to two-thirds of the members being members of the local authority, persons may be co-opted and must include at least two women.

(4) THE NURSES REGISTRATION ACT, 1919, established a General Nursing Council. This Council must compile a Register of Nurses.

(5) THE MIDWIVES ACT, 1936, amends the Midwives Acts, 1902 to 1926. The main purpose of the Act is to improve the standard of domiciliary midwifery in England and Wales by establishing an adequate service of salaried midwives.

(a) Each local supervisory authority is required to secure the whole-time employment of a sufficient number of midwives for attendance not only as midwives but also as maternity nurses during and for a period of at least ten days after childbirth on women in their own homes. (Sec. 1.)

(b) Each authority must, before making appointments, advertise its intention in the Press and send a separate notification to each midwife practising in its area. (Sec. 2.)

(c) Authorities are to fix scales of fees for the services of their midwives and may grant remission or rebate in certain cases. (Sec. 3.)

(d) Grants are to be made by the Exchequer towards the cost of the new service. (Sec. 4.)

(e) Compensation is to be made to a midwife who is not appointed by an authority and who agrees to cease practice and surrender her certificate. (Sec. 5.)

(f) Other sections contain provisions for preventing unqualified persons from practising as nurses in maternity cases and for securing the periodical attendance of certified midwives at courses of instruction provided by authorities.

## CHAPTER XIII

### HOUSING

1. THE MODERN PROBLEM has arisen mainly because of—
  - (1) Past negligence on the part of the legislature;
  - (2) Increased cost of building;
  - (3) Higher rates;
  - (4) Attractiveness of alternative investments;
  - (5) More stringent building regulations, which have checked the supply;
  - (6) Cessation of building operations during the 1914–19 War;
  - (7) Discouragement of private enterprise consequently on the difficulty of commanding an economic rent.

While these causes were responsible for placing a check on the supply, public interest in the problem was awakened by—

- (a) The introduction of legislation on national lines in 1851;
- (b) The growth of sanitary knowledge, with a recognition of the connection between bad housing and ill-health;
- (c) The creation of Housing Trusts arising from the greater philanthropic interest taken in the welfare of the working classes; and
- (d) A demand by the worker for a higher standard of life.

2. LEGISLATION. The Housing Acts now mean the Housing Act, 1936, which came into force on the 1st January, 1937; together with the unrepealed temporary financial provisions of former Acts which have been left outstanding. (Sec. 188.) To these must be now added the Housing (Financial Provisions) Act, 1938.

3. THE HOUSING Act, 1936, is divided into eight parts—191 sections, and twelve schedules.

- Part I. Local Authorities for Purposes of this Act.
- Part II. Provisions for securing the Repair, Maintenance and Sanitary Condition of Houses.
- Part III. Clearance and Re-development.
- Part IV. Abatement of Overcrowding.
- Part V. Provision of Housing Accommodation for the Working Classes.
- Part VI. Financial Provisions.
- Part VII. General.
- Part VIII. Supplemental.

The schedules are as follows—

First: Compulsory purchase orders.

Second: Validity and date of operation of certain orders.

Third: Clearance Orders.

Fourth: Rules as to the assessment of compensation where land is purchased compulsorily under Part III otherwise than at site value or under Part V.

Fifth: Number permitted to use a house for sleeping.

Sixth: Computation of Government contributions towards provision of flats on sites of high value and of value of sites.

Seventh: Determination of the amount of certain Government contributions payable under Section 7 of the Act of 1919 and sub-section (3) of Section 1 of the Act of 1923.

Eighth: Local authorities' contributions.

Ninth: Local housing bonds.

Tenth: Modification as to London of financial provisions.

Eleventh: Rehousing by undertakers in case of displacement of persons of the working classes.

Twelfth: Enactments repealed.

The Act does not extend to Scotland or Northern Ireland. (Sec. 191 (3).)

#### CENTRAL AUTHORITY.

Ministry of Health acting through the Housing and Town Planning Division, assisted by the Central Housing Advisory Committee. See page 99 *post*.

#### PART I. LOCAL AUTHORITIES FOR PURPOSES OF THIS ACT

Local authorities for the purpose of this Act—

(1) As respects England and Wales: the council of the borough, urban district, or rural district.

(2) As respects the administrative county of London—

- (a) As respects the City of London: the Common Council.
- (b) As respects any other part of the Administrative County of London: the work is divided between the Metropolitan Borough Council and the London County Council. (Sec. 1.) See the references to this division of work in the different Parts of the Act which follow.

#### PART II. PROVISIONS FOR SECURING THE REPAIR, MAINTENANCE AND SANITARY CONDITION OF HOUSES

OBLIGATION OF LESSORS OF SMALL HOUSES.

(1) Conditions to be implied on letting small houses—

- (a) County of London: Rental £40.
- (b) Elsewhere: Rental £26.

That the house will be kept by the landlord during the tenancy in all respects reasonably fit for human habitation. (Sec. 2.)

(2) The foregoing provision shall apply to houses occupied by agricultural workers otherwise than as tenants. (Sec. 3.)

(3) Information to be given to tenants of working-class houses as to the name and address of—

(a) The Medical Officer of Health; and

(b) The landlord or agent of the property. (Sec. 4.)

(4) The National Health Insurance Acts make provision as to excessive sickness.

(5) The Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, Sec. 12, provides that the tenant may obtain a certificate as to the state of repair from the local sanitary authority upon payment of a fee not exceeding 1s.

(6) The expression "house" includes any yard, garden, out-houses, and appurtenances belonging thereto or usually enjoyed therewith. (Sec. 188 (1).) See also Sec. 23 *post*.

#### DUTY OF LOCAL AUTHORITY IN REGARD TO INSPECTION OF HOUSES.

(1) Every local authority must inspect their district from time to time to ascertain whether any house is unfit for human habitation, and for that purpose the authority and every officer of the authority shall comply with every regulation and keep such records as the Minister may prescribe. (Sec. 5.)

(2) *The Housing Consolidated Regulations* require regular and systematic inspection of dwelling-houses with a view to the remedying of defects "which may tend to render the house dangerous or injurious to the health of an inhabitant."

(3) The expression "sanitary defects" includes lack of air space or of ventilation, darkness, dampness, absence of adequate and readily accessible water supply or sanitary accommodation or of other conveniences, and includes paving or drainage of courts, yards, or passages. (Sec. 188 (1).)

(4) In determining for the purposes of this Act whether a house is fit for human habitation, regard shall be had to the extent, if any, to which by reason of dis-repair or sanitary defects the house falls short of the provisions of any by-law in operation in the district or of any enactment in any local Act in operation in the district dealing with the construction and drainage of new buildings and the laying out and construction of new streets or of the general standard of housing accommodation for the working classes in the district. (Sec. 188 (4).)

#### POWER OF LOCAL AUTHORITIES TO MAKE AND ENFORCE BY-LAWS.

(1) With respect to houses intended to be used for occupation by the working classes. (Sec. 6 (1).)

(2) May be limited to houses let in lodgings or occupied by members of more than one family. (Sec. 6 (3).)

(3) May impose duty to execute works where the owner has failed to comply with the by-laws. (Sec. 7.)

(4) As respects the administrative county of London, the London County Council shall be the authority for the purpose of making and enforcing by-laws under Section 6 of this Act. (Sec. 8.)

#### REPAIR, DEMOLITION, AND CLOSING OF INSANITARY PREMISES.

(1) Local authority must enforce repair of insanitary house after consideration of—

(a) An official representation; or

(b) A report from any of their officers; or

(c) Other information in their possession. (Sec. 9.)

(2) Official representation means:

(a) A representation made to that authority by the Medical Officer thereof.

(b) In the case of a rural district, or an urban district not containing a population of more than 10,000, a representation by the Medical Officer of Health of the county to the county council.

(c) In the case of the council of a metropolitan borough, a representation made by the Medical Officer of Health of the County of London to the London County Council. (Sec. 181 (1).)

(3) The Medical Officer of Health shall make an official representation whenever he is of opinion—

(i) That any dwelling-house in the district is unfit for human habitation; or

(ii) That any area should be dealt with either as a clearance area or as an improvement area; and

(4) Complaint may be made to the Medical Officer of Health in writing by—

(i) Any Justice of the Peace acting for the district; or

(ii) Any four or more local government electors; or

(iii) In the case of a rural district, the parish council of any parish within the district;

(a) that any dwelling-house is unfit for human habitation; or

(b) that any area should be dealt with either as a clearance area or as an improvement area.

(5) Duty of Medical Officer forthwith—

(i) To inspect that house or that area; and

(ii) To make a report to the local authority stating the facts of the case, and whether in his opinion the house is unfit for human habitation, or whether the area should be dealt with as a clearance area or as an improvement area.

## ENFORCEMENT OF NOTICE REQUIRING EXECUTION OF REPAIRS.

(1) If a notice under the last foregoing section is not complied with, then—

- (a) after the expiration of the time specified in the notice; or
- (b) if an appeal has been made, and has been confirmed with or without modification, after the expiration of twenty-one days from the final determination of the appeal; or
- (c) after such longer period as the court may fix the local authority may themselves do the work.

(2) The local authority may give notice of their intention so to do.

(3) Any expenses incurred by a local authority under this section, together with interest, may be recovered by them by action or summarily as a civil debt from the person having control. (Sec. 10.)

## POWER OF LOCAL AUTHORITY TO ORDER DEMOLITION OF INSANITARY HOUSE.

(1) Under conditions similar to Section 9 *ante*, but where the dwelling-house is not capable of being rendered fit for human habitation.

(2) A local authority may, after consultation with any owner or mortgagee, accept an undertaking—

(a) that he will within a specified time carry out such works as will render the house fit for human habitation; or

(b) that it shall not be used for human habitation until the authority cancel the undertaking. (Sec. 11.)

(3) Power is given to local authority to deal with part of a building. (Sec. 12.)

## PROCEDURE WHERE DEMOLITION ORDER IS MADE.

Where a Demolition Order has become operative—

(a) the owner or owners shall demolish that house within the time limited in that behalf by the Order; and

(b) if the house is not demolished within that time the local authority shall enter and demolish the house and sell the material thereof. (Sec. 13.)

## POWER OF LOCAL AUTHORITY TO ACQUIRE AND REPAIR CERTAIN HOUSES.

(1) Where any person has appealed against a notice as aforesaid and the judge or court in allowing the appeal has found that the house cannot be rendered fit for human habitation at a reasonable expense, the local authority

(a) may purchase that house by agreement; or

(b) may be authorized to purchase it compulsorily in accordance with this section.

(c) In the latter event, they shall execute all such works as were specified in the notice against which the appeal was brought.

(2) A local authority may for the purpose of this section be authorized to purchase a house by a Compulsory Purchase Order made and submitted to the Minister—

(a) within six months after the determination of the appeal; and

(b) confirmed by him in accordance with the provisions of the First Schedule to this Act.

(3) The provisions of the Second Schedule to this Act shall have effect with respect to the validity and date of operation of a Compulsory Purchase Order made under this section.

(4) The compensation to be paid shall be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919. (Sec. 16.)

*Power* is given to local authority to cleanse from vermin buildings to which a demolition order applies. (Sec. 17.)

#### GENERAL.

(1) *Power* of local authority to make allowances to certain persons displaced. (Sec. 18.)

(2) *Provisions* are made for protection of owners of houses who are not in receipt of rents and the profits thereof. (Sec. 19.)

(3) *Power* of local authority to grant a Charging Order to owners on completion of works. (Sec. 20.)

(4) *Provisions* are made as to the form, effect, etc., of Charging Orders. (Sec. 21.)

(5) *Back to back houses* are prohibited notwithstanding anything in any local Act or by-laws. (Sec. 22.)

(6) *House* for the purpose of Sections 9 to 17 includes a hut, tent, caravan, or other temporary or movable form of shelter which is used for human habitation and has been in the same enclosure for a period of two years next before action is taken under those sections. (Sec. 23.)

(7) *Local authority* for the administrative county of London other than the City of London for the purposes of this Part of this Act shall, subject to the provisions of Section 8, be the Council of the Metropolitan Borough.

### PART III. CLEARANCE AND RE-DEVELOPMENT

#### CLEARANCE AREAS.

*Power* to declare area to be clearance area—

(1) Where a local authority, upon consideration of an official

representation or other information in their possession, are satisfied as respects any area in their district—

(a) that the dwelling-houses in that area are dangerous or injurious to the health of the inhabitants; and

(b) that the most satisfactory method of dealing with the conditions in the area is the demolition of all buildings in the area; the local authority shall pass a resolution declaring the area so defined to be a *Clearance Area*. (Sec. 25.)

(2) *Clearance Orders* shall be made by a local authority and submitted to the Minister in accordance with the Second and Third Schedules to the Act. (Sec. 26.)

(3) *Purchase by Local Authority of Land Surrounded by, or Adjoining, Clearance Area*. Where the local authority determine to purchase land comprised in a clearance area, they may purchase also—

(a) any land which is surrounded by the clearance area and the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions; and

(b) any adjoining land the acquisition of which is reasonably necessary for the satisfactory development or user of the cleared area. (Sec. 27.)

(4) *Provisions with Respect to Property belonging to a Local Authority Within, Surrounded by or Adjoining a Clearance Area*. A local authority may include in a clearance area any land belonging to them which they might have included in such an area if it had not belonged to them. (Sec. 28.)

(5) *Purchase of Land in a Clearance Area*. Where a local authority have determined to purchase land in accordance with the previous section, they may purchase the land by agreement or compulsorily in accordance with the provisions of the First Schedule to the Act. (Sec. 29.)

(6) *Treatment of a Clearance Area*. A local authority who have purchased any land comprised in, or surrounded by, or adjoining, a clearance area shall as soon as may be

(i) cause every building thereon to be vacated; and

(ii) deal with that land in one or other of the following ways, that is to say—

(a) demolish every building thereon; or

(b) thereafter sell or let the land, subject to conditions. (Sec. 30.)

(7) *Arrangements where Acquisition of Land in a Clearance Area found to be Unnecessary* in cases where the authority is satisfied that the owner or owners of the land will agree to the requirements under the Act as provided in Sec. 31.

(8) *Power of Local Authority to Purchase Cleared Land which*

*Owners have Failed to Re-develop.* The local authority at any time after eighteen months from the date of the operation of the Clearance Order may by resolution determine to purchase land which owner has failed to develop. (Sec. 32.)

(9) *Local Authority for Clearance Areas in London (other than the City)* are, within a metropolitan borough, both the London County Council and the council of the borough. The London County Council undertake the duties in the case of the more extensive clearance areas. (Sec. 33.)

#### RE-DEVELOPMENT AREAS.

1. *Duty of Local Authority to Secure Re-development.* If the local authority are satisfied as a result of an inspection carried out under Sec. 1 of this Act, or otherwise, that their district comprises any area in which the following conditions exist, viz.—

(a) that the area contains fifty or more working-class houses;  
 (b) that at least one-third of the working-class houses in the area are—  
     (i) overcrowded; or  
     (ii) unfit for human habitation; and  
     (iii) not capable at a reasonable expense of being rendered so fit; or  
     (iv) so arranged as to be congested;  
 (c) that the industrial and social conditions of their district are such that the area should be used to a substantial extent for housing the working classes; and  
 (d) that it is expedient in connection with the provision of housing accommodation for the working classes that the area should be re-developed as a whole;  
 the local authority must define the area on a map, and pass a resolution declaring it to be a proposed re-development area. (Sec. 34.)

2. *Re-development Plan.* (1) Within six months after a local authority have passed such a resolution under the last foregoing section; or

Within such extended period as the Minister may allow, the authority shall prepare and submit to the Minister a Re-development Plan indicating—

(i) the land intended to be used for the provision of houses for the working class, for streets, for open spaces; and  
 (ii) generally the manner in which it is proposed that the defined area should be laid out.  
 (2) In the preparation of the plan the local authority shall have regard to the provisions of any planning scheme relating to the defined area or land in the neighbourhood. (Sec. 35.)

3. *Purchase of Land for the Purpose of Re-development.* After

a specified period the local authority must acquire all land in respect of which they have not been able to make arrangements with other persons for the carrying out of the re-development plan. (Sec. 36.)

4. *Local Authority for Re-development Areas in London (other than the City)* is the London County Council subject to the proviso of Section 37.

#### IMPROVEMENT AREAS.

1. *Improvement Area.* Procedure is supplanted by the Re-development procedure. It was necessary to re-enact the provisions for those local authorities who may have passed resolutions as to an Improvement Area, and had not yet carried them into effect.

2. *Treatment of Improvement Area.* A local authority which has passed a resolution declaring an area to be an Improvement Area shall, as soon as may be—

(1) In the case of dwelling-houses which are unfit for habitation—

(a) Serve notices under Part II of this Act requiring the execution of all necessary works thereon; or the demolition thereof; and

(b) Shall enforce compliance with these notices.

(2) In so far as the improvement of the area involves the purchase of land for opening out the area—

(a) Proceed to purchase that land; or

(b) Accept owner's undertaking to remedy conditions. (Sec. 38.)

3. *Local Authority for Improvement Areas in London (other than the City)* is the London County Council subject to the proviso of Section 39.

#### GENERAL PROVISIONS AS TO CLEARANCE, RE-DEVELOPMENT AND IMPROVEMENT.

(1) *Compensation in Respect of Land Purchased Compulsorily.* Where land is purchased compulsorily by a local authority the compensation shall be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the provisions of Section 40.

(2) *Obligation of local authority* and the Minister to state reasons for deciding that a building is unfit for human habitation. (Sec. 41.)

(3) *Payments in respect of well-maintained houses* are provided for in Section 42.

(4) *Provisions as to costs of persons opposing orders and as to costs of Minister* are subject to orders in accordance with Section 43.

(5) *Power of local authority to make allowances to certain persons displaced—*

A local authority may pay—

(a) to any person displaced from any dwelling-house or other building to which—

(i) a clearance order applies; or

(ii) a demolition order applies; or

(iii) a closing order applies; or

(iv) which has been purchased by them either under

(1) Part I of this Act as being unfit for human habitation and not capable at reasonable expense of being rendered so fit; or

(2) Part II of the 1930 Act or Part I of the Housing Act, 1935,

such reasonable allowance as they think fit towards his expenses in removing; and

(b) to any person carrying on any trade or business in any such dwelling-house or other building, such reasonable allowance as they think fit towards the loss he will sustain by reason of the disturbance of his trade or business. (Sec. 44.)

(6) *Obligation of local authority to re-house persons displaced* is placed upon an authority who have passed a resolution declaring any area to be a clearance or improvement area. (Sec. 45.)

(7) *Extinguishment of ways, easements, etc., over land purchased under this Part of the Act.* (Sec. 46.)

(8) *Provision as to licensed premises purchased under this part of the Act is provided in Section 47.*

(9) *On clearance and improvement areas in London* the London County Council may lay out and construct new streets. (Sec. 48.)

(10) *Provisions as to apparatus of statutory undertakers in land dealt with by local authorities under the Housing Acts are contained in Section 49.*

#### RE-DEVELOPMENT AND RE-CONDITIONING BY OWNERS

(1) *Re-development by Owners.* Any persons proposing to undertake the re-development of land may submit particulars of their proposals to the local authority, who

(a) shall consider the proposals; and

(b) if they appear to the authority to be satisfactory, shall give to the persons by whom they were submitted notice to that effect, specifying times within which the several parts of the re-development are to be carried out; and

(c) if and so long as the re-development is being proceeded with— .

(i) in accordance with the proposal and within the provision of the notices served by the authority;

(ii) subject to any variation or extension approved by the authority,

no action shall be taken in relation to the land under any of the powers relating to Re-development Areas. (Sec. 50).

(2) *Certificates as to the Condition of Houses.* Any owner of a dwelling-house—

(a) which is occupied, or

(b) which is of a type suitable for accommodation by persons of the working classes, and

(c) in respect of which works of improvement (otherwise than by way of decoration or repairs); or

(d) in respect of which structural alterations are proposed to be executed.

may submit a list of the proposed works to the local authority with a request in writing that the authority shall inform him whether in their opinion the house would, after the execution

(i) of those works; or

(ii) of those works together with any additional works,

be in all respects fit for human habitation and would, with reasonable care and maintenance, remain so fit for a period of at least five years. (Sec. 51.)

(3) *Exclusion from Sections 50 and 51* of premises comprised in certain orders is provided for in Section 52.

(4) *Local authority in London* for re-development, etc., by owners (other than in the City) shall as respects the administrative county of London be the Metropolitan Borough Council. (Sec. 53.)

#### DEMOLITION OF OBSTRUCTIVE BUILDINGS.

1. *Power of Local Authority to Order Demolition of Obstructive Building.*

(1) The local authority for the purposes of Part I of the Act of 1925 and of Part II of the Act of 1930 may serve upon the owner or owners of a building, which appears to the authority to be an obstructive building, notice of the time (being some time not less than twenty-one days after the service of the notice) and place at which the question of ordering the building to be demolished will be considered by the authority; and

(2) The owner or owners shall be entitled to be heard when the matter is so taken into consideration. (Sec. 54.)

2. *Effect of Order for Demolition of Obstructive Building.*

(1) If, before the expiration of the period within which a building in respect of which an order is made under the last foregoing section is thereby required to be vacated;

(2) any owner or owners, whose estate or interest, or whose combined estates or interests, in the building;

(3) and the site thereof is or are such that the acquisition thereof by the local authority would enable the local authority to carry out the demolition provided for by the order;

(4) make to the local authority an offer for the sale of that interest, or of those interests, to the local authority;

(5) at a price to be assessed, as if it were compensation for a compulsory purchase by arbitration in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the rules specified in the Fourth Schedule to this Act;

(6) the authority shall accept the offer and shall as soon as possible after obtaining possession carry out the demolition. (Sec. 55.)

3. *Local Authority in London* for demolition of obstructive buildings in London (other than in the City) is the Metropolitan Borough Council. (Sec. 56.)

#### PART IV. ABATEMENT OF OVERCROWDING

##### 1. DUTY OF LOCAL AUTHORITY TO INSPECT AND TO MAKE REPORTS AND PROPOSALS AS TO OVERCROWDING.

(1) *Inspection* of districts to ascertain overcrowding; and

(2) *Report* to the Minister showing result of inspection; and

(3) *Proposals* for the provision of required number of houses.

(Sec. 57.)

2. DEFINITION OF OVERCROWDING. "Overcrowding" is defined in Section 58 and the Fifth Schedule by reference to either the number of persons sleeping in the same room or the number of persons in relation to the number and floor area of the rooms.

(1) A dwelling-house shall be deemed for the purposes of this Act to be overcrowded at any time when the number of persons sleeping in the house either—

(a) is such that any two of those persons, being persons ten years old or more of opposite sexes and not being persons living together as husband and wife, must sleep in the same room; or

(b) is, in relation to the number and floor area of the rooms in which the house consists, in excess of the permitted number of persons as defined in the Fifth Schedule to this Act.

(2) In determining for the purposes of this section the number of persons sleeping in a house, no account shall be taken of a child under one year old, and a child who has attained one year and is under 10 years old shall be reckoned as one-half of a unit.

## FIFTH SCHEDULE.

*Number of Persons Permitted to Use a House for Sleeping.*

For the purposes of Part IV of this Act the expression "the permitted number of persons" means, in relation to any dwelling-house either—

(a) the number specified in the second column of Table I in the annex hereto in relation to a house consisting of the number of rooms of which that house consists; or

(b) the aggregate for all the rooms in the house obtained by reckoning, for each room therein of the floor area specified in the first column of Table II in the annex hereto, the number specified in the second column of that Table in relation to that area;

whichever is the less:

Provided that in computing for the purposes of the said Table I the number of rooms in a house, no regard shall be had to any room having a floor area of less than 50 square feet.

## ANNEX

## TABLE I

Where a house consists of—

(a)	One room	.	.	.	.	.	.	.	2
(b)	Two rooms	.	.	.	.	.	.	.	3
(c)	Three rooms	.	.	.	.	.	.	.	5
(d)	Four rooms	.	.	.	.	.	.	.	7½
(e)	Five rooms or more	.	.	.	.	.	.	.	10,

with an additional 2 in respect of each room, in excess of five.

## TABLE II

Where the floor area of a room is—

(a)	110 sq. ft. or more	.	.	.	.	.	.	.	2
(b)	90 sq. ft. or more, but less than 110 sq. ft.	.	.	.	.	.	.	.	1½
(c)	70 sq. ft. or more, but less than 90 sq. ft.	.	.	.	.	.	.	.	1
(d)	50 sq. ft. or more, but less than 70 sq. ft.	.	.	.	.	.	.	.	½
(e)	Under 50 sq. ft.	.	.	.	.	.	.	.	Nil.

3. OFFENCES IN RELATION TO OVERCROWDING are provided for, as from the appointed day, and are contained in Section 59.

4. POWER OF MINISTER TO INCREASE THE PERMITTED NUMBER TEMPORARILY TO MEET EXCEPTIONAL CONDITIONS on the representation of the local authority, and after consultation with the Central Housing Advisory Committee for a period not exceeding three years after the appointed day. (Sec. 60.) See Sec. 135.

5. POWER OF LOCAL AUTHORITY TO AUTHORIZE THE TEMPORARY USE OF A HOUSE BY PERSONS IN EXCESS OF THE PERMITTED NUMBER either unconditionally or subject to any conditions specified therein. (Sec. 61.)

6. ENTRIES IN RENT BOOKS, INFORMATION, AND CERTIFICATES

WITH RESPECT TO THE PERMITTED NUMBER, as from the expiration of six months from the appointed day, and the local authority must, on the application of the landlord or occupier, ascertain how many persons are permitted. (Sec. 62.)

7. INFORMATION AS TO RIGHTS AND DUTIES AS RESPECTS OVERCROWDING, to be published by the local authority for the assistance of landlords and occupiers of dwelling-houses as to their rights and duties under this Part I of the Act relating to overcrowding and as to the enforcement thereof. (Sec. 63.)

8. DUTY IS IMPOSED ON LANDLORD TO INFORM LOCAL AUTHORITY OF OVERCROWDING within seven days after the fact first comes to his knowledge. (Sec. 64.)

9. RIGHT OF LANDLORD TO OBTAIN POSSESSION OF OVERCROWDED HOUSE notwithstanding the provisions of the Rent and Mortgage Interest (Restrictions) Acts. (Sec. 65.)

10. ENFORCEMENT OF FOREGOING PROVISIONS by the local authority. (Sec. 66.)

11. DUTY OF MEDICAL OFFICERS TO FURNISH PARTICULARS OF OVERCROWDING IN THEIR DISTRICT to the Minister, and in particular to furnish to him particulars of any cases in which dwelling-houses of which the local authority have taken steps for the abatement of overcrowding have again become overcrowded. (Sec. 67.)

12. DEFINITIONS FOR PURPOSES OF PART IV. Section 68 defines: "Appointed day" means in relation to any matter in relation to which the Minister has appointed a day under Section 97 of the Housing Act, 1935, that day; and in relation to any other matter such day as the Minister may appoint under this provision, and the Minister may fix different days for different purposes and different provisions of this Part of this Act and of sub-section (2) of Section 6 of this Act and for different localities.

"Dwelling-house" means any premises used as a separate dwelling by members of the working classes or of a type suitable for such use.

"Landlord" means the immediate landlord of an occupier.

"Room" does not include any room of a type not normally used in the locality either as a living room or as a bedroom.

"Suitable alternative accommodation" means, in relation to the occupier of a dwelling-house, a dwelling-house as to which the following conditions are satisfied, viz.—

(a) the house must be a house in which the occupier and his family can live without causing it to be overcrowded;

(b) the local authority must certify the house to be suitable to the needs of the occupier and his family as respects security of tenure and proximity to place of work and otherwise and to be suitable in relation to his means; and

(c) if the house belongs to the local authority they must certify it to be suitable to the needs of the occupier and his family as respects extent of accommodation having regard to the standard specified in par. (b) of Section 136 of this Act.

13. LOCAL AUTHORITY IN LONDON other than the City of London is the metropolitan borough council except for the purposes of Section 57 relating to the provision of new houses required in order to abate overcrowding. (Sec. 69.)

14. CONTRIBUTIONS MAY BE MADE BY THE LONDON COUNTY COUNCIL to the expenses incurred by a metropolitan borough council in the remuneration of any person for purposes in connection with this Part of the Act for period ending 31st March, 1941. (Sec. 70.)

## PART V. PROVISION OF HOUSING ACCOMMODATION FOR THE WORKING CLASSES

### GENERAL POWERS AND DUTIES OF LOCAL AUTHORITIES.

(1) *Duty of local authority* is periodically to review housing conditions in their area and to frame proposals—

- (i) as often as occasion arises; or
- (ii) within three months after notice has been given to them by the Minister. (Sec. 71.)

(2) *Approval of scheme* by Minister, with or without modification, having regard to existing architectural, historic, or artistic features, and the natural amenities of the locality.

(3) *Duty of the local authority* to carry out scheme within such time as may be specified in the scheme or allowed by the Minister.

1. MODE OF PROVISION OF HOUSING ACCOMMODATION for the working classes by a local authority provided by—

- (a) the erection of houses on any land acquired or appropriated by them;
- (b) the conversion of any buildings into houses for the working classes;
- (c) acquiring houses suitable for the purpose;
- (d) altering, enlarging, repairing or improving any houses or buildings which have, or any estate or interest in which has, been acquired by the local authority.

Any such powers as aforesaid may, for supplying the needs of the district, be exercised outside the district of the local authority.

2. The local authority may alter, enlarge, repair or improve any house so erected, converted or acquired, and may fit out, furnish, and supply any such house with all requisite furniture, fittings, and conveniences. (Sec. 72.)

3. POWER OF LOCAL AUTHORITY TO ACQUIRE LAND for provision of accommodation for the working classes including—

- (a) any houses or other buildings thereon as a site for the erection of houses;
- (b) any houses or other buildings which are, or may be made, suitable therefor;
- (c) any land for the purpose of—
  - (i) the lease or sale with a view to erection thereon of houses by other persons;
  - (ii) the use thereof for purposes necessary or desirable for or incidental to the development of the land as a building estate. (Sec. 73.)

4. MODE OF ACQUISITION OF LAND FOR PROVISION OF ACCOMMODATION.

- (1) By agreement; or
- (2) compulsorily in accordance with the First Schedule to the Act. (Sec. 74.)

5. RESTRICTIONS AS TO COMPULSORY ACQUISITION OF LAND FOR THE PURPOSES OF THIS PART OF THE ACT apply to land which is the property of—

- (1) any local authority; or
- (2) statutory undertakers; or
- (3) forms part of any park, garden or pleasure ground; or
- (4) is required for the amenity or convenience of any house. (Sec. 75.)

6. APPROPRIATION OF LAND FOR PROVISION of accommodation by local authority of any houses or land vested in them. (Sec. 76.)

7. SALE OR LEASE OF LAND IN NEW FOREST for provision of accommodation to be deemed a local sanitary requirement. (Sec. 77.)

8. POWER TO ACQUIRE WATER RIGHTS for houses provided in accordance with the Public Health Act. (Sec. 78.)

9. POWERS OF DEALING WITH LAND ACQUIRED or appropriated for provision of accommodation include the power—

- (a) to lay out and construct streets, roads, and open spaces on the land acquired; and
- (b) with the consent of the Minister, sell or lease the land or part thereof. (Sec. 79.)

10. SUPPLEMENTARY POWERS in connection with the provision of accommodation include a power to provide and maintain any building adapted for use as a shop, any recreation grounds or other buildings or land which will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided. (Sec. 80.)

11. EXECUTION OF WORKS in connection with housing operations by local authority outside its own area shall be subject to the approval of the Minister and to agreement with the council

of the county or district in which the scheme is carried out. (Sec. 81.)

12. **ADJUSTMENT OF DIFFERENCES** between local authorities as to carrying out proposals for the provision of houses may be referred to the Minister whose decision shall be final and binding. (Sec. 82.)

#### MANAGEMENT, ETC., OF LOCAL AUTHORITY'S HOUSES

(1) Management, inspection, regulation and control of houses provided by a local authority shall be vested in and exercised by them. (Sec. 83.)

(2) *By-laws* for regulation of local authority's houses may be made by the local authority. (Sec. 84.)

(3) *Conditions* to be observed in management of local authority's houses are provided by Section 85.

(4) *Conditions on sale of local authority's houses* are provided in Sec. 86.

(5) *Power to Establish Housing Management Commissions.*

(a) Where it appears to a local authority expedient that a Housing Management Commission should be established with a view to the transfer to and the performance by the Commission of all or any of the functions of the authority under the enactments relating to housing with respect to—

(i) the management, regulation, and control; and

(ii) the repair and maintenance of working-class houses, etc., the authority shall prepare and submit to the Minister a scheme—

(a) making provision for the establishment of the Commission; and

(b) for the incorporation thereof, under the name of the Housing Management Commission with—

(i) the addition of the name of the district of the local authority;

(ii) perpetual succession and a common seal; and

(iii) power to hold land for the purposes of their constitution without licence in mortmain.

(b) The scheme may provide, among other things, that the Chairman of a Commission may be paid remuneration, the Commission may employ its own staff, may have property transferred to it, etc. (Sec. 87.)

#### SPECIAL PROVISIONS AS TO RURAL DISTRICTS

1. **DUTY OF COUNTY COUNCIL** in respect of housing conditions in rural districts includes constant regard to the housing conditions of persons of the working classes. (Sec. 88.)

2. AGREEMENTS by county council for assisting rural district councils in provision of accommodation may include agreement for the exercise by the county council of all or any of the powers of the district council under this Part of the Act. (Sec. 89.)

#### POWER OF CERTAIN AUTHORITIES TO ASSIST FINANCIALLY THE ERECTION OF HOUSES, IMPROVEMENT OF HOUSING ACCOMMODATION, ETC.

1. LOANS BY LOCAL AUTHORITIES may be made to the owner of a house or building for the improvement of housing accommodation. (Sec. 90.)

2. POWER OF LOCAL AUTHORITIES to make advances, etc., to persons or bodies of persons for the purposes of increasing housing accommodation. (Sec. 91.)

3. PUBLIC WORKS LOAN COMMISSIONERS may lend money for the purpose of constructing or improving, etc., houses for the working classes. (Sec. 92.)

#### HOUSING ASSOCIATIONS, ETC.

1. POWER OF LOCAL AUTHORITIES and county councils to promote and assist housing associations including power to—

- (a) make grants or loans to the association;
- (b) subscribe for any share or loan capital of the association;
- (c) guarantee or join in guaranteeing the payment of principal or interest. (Sec. 93.)

2. DEFINITION OF "HOUSING ASSOCIATION." "Housing association" means a society, body of trustees, or company established for the purpose of, or amongst whose objects or powers are included those of, construction, improving or managing or facilitating or encouraging the construction or improvement of, houses for the working classes, being a society, body of trustees, or company who do not trade for profit or whose constitution or rules prohibit the issue of any capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury, whether with or without differentiation as between share and loan capital. (Sec. 188 (1).)

3. POWER OF LOCAL AUTHORITIES TO MAKE ARRANGEMENTS WITH HOUSING ASSOCIATIONS. With the approval of the Minister arrangements may be made with a housing association for the purpose of enabling the association to—

- (a) provide housing accommodation
  - (i) for persons of the working classes displaced under Part II or Part III;
  - (ii) rendered necessary by displacement under Part III or Part IV;

(iii) for persons of the working classes for the purposes of the abatement of overcrowding;

(b) alter, enlarge, repair, or improve houses or buildings. (Sec. 94.)

4. UNIFICATION OF CONDITIONS affecting housing associations' houses where the Minister has undertaken to make contributions under more than one enactment is provided for in Section 95.

5. POWER OF MINISTER TO RECOGNIZE CENTRAL HOUSING ASSOCIATION. If a central association or other established body for promoting the formation and extension of housing associations and generally advising and assisting them, the Minister may for a period of five years make an annual grant in aid of the expenses thereof. (Sec. 96.)

6. THE NATIONAL FEDERATION OF HOUSING SOCIETIES has accordingly been incorporated with offices at the Housing Centre, 13 Suffolk Street, London, S.W.1.

#### MISCELLANEOUS.

1. COUNTY COUNCIL AND MENTAL HOSPITALS BOARD have power to provide houses for persons employed by them. (Sec. 97.)

2. ANY RAILWAY, ETC., COMPANY by whom persons of the working class are employed may provide houses for working classes. (Sec. 98.)

3. TRUSTEES of any houses for the working classes provided by private subscription or otherwise may sell or lease the houses to the local authority. (Sec. 99.)

4. ANY BODY CORPORATE (INCLUDING THE COMMISSIONERS OF CROWN LANDS) may sell, exchange or lease land for the purpose of the erection of houses for the working classes. (Sec. 100.)

5. POWER OF WATER AND GAS COMPANIES and other bodies having management of such undertakings to supply either without charge or on such favourable terms as they think fit. (Sec. 101.)

6. THE POWERS UNDER THE PUBLIC HEALTH ACTS for the purposes of this Act shall be exercised by the local authority. (Sec. 102.)

7. LOCAL AUTHORITY IN LONDON for this Part of the Act (other than in the City) shall be the London County Council. (Sec. 103.)

### PART VI. FINANCIAL PROVISIONS

#### FINANCE

FINANCIAL ASSISTANCE by the State contributions are outlined in Chapter XXVI.

RATES. The expenses incurred by a local authority in the execution of the Housing Acts shall be defrayed—

(1) in the case of county boroughs, boroughs, and urban districts, out of the General Rate Fund; and

(2) in a rural district:

(a) expenses in connection with insanitary houses and unhealthy areas as Special Expenses chargeable on the contributory place in respect of which they are incurred; but

(b) in connection with the provision of new accommodation as General Expenses; except

(i) that the Rural District Council may agree to make a reasonable contribution to any Special Expenses; and

(ii) the Council may apply to the Minister of Health for an Order charging expenses which would otherwise be General Expenses as Special Expenses. (Sec. 116.)

**LOANS.** Money borrowed for the purpose of the Housing Acts may be spread over a period not exceeding eighty years. The usual periods sanctioned by the Minister are—

Land: 80 years; Buildings: 60 years; Sewers: 30 years; Roads: 20 years. One sanction for an equated period of 60 years will be allowed.

ACCOUNTS must be audited as the other accounts of the local authority. (Sec. 128.)

The subject is dealt with more fully in *The Law of Housing and Planning*. Fourth Edition. (Pitman.)

## PART VII. GENERAL

### CENTRAL HOUSING ADVISORY COMMITTEE

(1) The Minister shall appoint a Central Housing Advisory Committee for the purpose of—

(a) Advising the Minister on any matters, relating to a temporary increase of the permitted number of persons in relation to overcrowding, as respects which he is required by Section 60 to consult the Committee;

(b) advising Housing Management Commissions constituted under Section 87 on any matter as respects which such Commissions are required to consult the Committee;

(c) advising the Minister on any question which may be referred by him to the Committee on any other matter arising in connection with the execution of the enactments relating to housing;

(d) considering the operation of the enactments relating to housing and making representations to the Minister.

(2) The Minister may by order make provision with respect to

the constitution and procedure of the Committee, and such order may be varied by a subsequent order.

(3) The Minister may, out of moneys provided by Parliament, pay such expenses of the Committee as he may, with the approval of the Treasury, determine. (Sec. 135.)

#### RE-HOUSING.

1. STANDARD OF RE-HOUSING ACCOMMODATION unless the Minister otherwise approves must be in accordance with that laid down in Section 136.

2. RE-HOUSING OBLIGATIONS of undertakers in case of displacement of persons of the working classes shall be in accordance with the Eleventh Schedule to the Act. (Sec. 137.)

#### PROVISIONS AS TO BUILDING BY-LAWS, ETC.

1. RELAXATION OF BUILDING BY-LAWS in connection with housing operations carried out under this Act by a local authority or county council, or by a housing association or housing trust. (Sec. 138.)

2. BUILDING BY-LAWS ARE NOT TO APPLY TO ANY new streets constructed in accordance with plans and specifications approved by the Ministry of Agriculture and Fisheries under the Small Holdings and Allotments Acts. (Sec. 139.)

3. PROVISIONS AS TO BY-LAWS RELATING TO NEW STREETS may be made under a code prescribed by the Minister for the purpose of facilitating the erection of houses. (Sec. 140.)

4. POWER IS GIVEN TO MINISTER TO REVOKE unreasonable by-laws. (Sec. 141.)

#### PROVISIONS AS TO ACQUISITION, ETC., OF LAND.

1. PROTECTION OF AMENITIES OF LOCALITY, ETC., by a local authority in preparing any proposals for the provision of houses. (Sec. 142.)

2. PROVISION AS TO COMMONS AND OPEN SPACES by an Order under this Act shall be provisional only until it is confirmed by Parliament. (Sec. 143.)

3. PROVISION AS TO LAND IN THE NEIGHBOURHOOD of Royal Palaces and Parks is subject to the recommendations of the Commissioners of Works. (Sec. 144.)

4. POWER OF ENTRY ON LAND ACQUIRED is provided for by Section 145.

5. PAYMENT OF PURCHASE OR COMPENSATION MONEY by one local authority to another may be paid as the Minister may determine. (Sec. 146.)

6. EXEMPTION from the provisions of the Land Clauses Consolidation Act, 1845, Sec. 133, is provided by Section 147.

7. POWER OF LOCAL AUTHORITIES to enforce covenants against owner for the time being of land is provided by Section 148.

8. COMPENSATION IN CERTAIN CASES OF SUBSIDENCE shall be made to a local authority or county council in respect of housing schemes. (Sec. 149.)

9. DONATIONS FOR HOUSING PURPOSES either of land, money, or other property may be accepted by a local authority. (Sec. 150.)

#### PROCEDURE OF LOCAL AUTHORITIES: OFFICIAL REPRESENTATIONS.

1. Joint action by local authorities either generally or in any special case may be approved by the Minister. (Sec. 151.)

2. Buildings situated in districts of more than one local authority may be agreed to be situated in the district of one of the said authorities. (Sec. 152.)

#### OFFICIAL REPRESENTATIONS.

(1) Made by a Medical Officer of Health in pursuance of this Act shall be in writing.

(2) *The Medical Officer of Health* of a local authority shall make an official representation whenever he is of opinion—

(i) that any dwelling-house in the district is unfit for human habitation, or

(ii) that any area in the district is an area which should be dealt with either as a clearance or as an improvement area.

(a) *Complaint* may be made to the Medical Officer of Health in writing by—

(i) any Justice of the Peace acting for the district, or

(ii) any four or more local government electors of the district, or

(iii) the council of any parish within a rural district,

(a) that any dwelling-house is unfit for human habitation, or

(b) that any area should be dealt with either as a clearance area or as an improvement area.

(b) It is the duty of the Medical Officer forthwith—

(i) to inspect that house or that area, and

(ii) to make a report to the local authority stating the facts of the case and whether in his opinion the house is unfit for human habitation, or whether the area should be dealt with as a clearance area or as an improvement area.

But the absence of any such complaint shall not excuse him from inspecting any dwelling-house or area and making a representation thereon to the local authority.

(3) The local authority shall as soon as may be, take into

consideration any official representation that has been made to them. (Sec. 154.)

#### RECOVERY OF POSSESSION, ENTRY, ETC.

1. RECOVERY OF POSSESSION OF BUILDINGS subject to a demolition order or a clearance order is provided for in Section 155.

2. RECOVERY OF POSSESSION OF CONTROLLED HOUSES under the Rent and Mortgage Interest (Restriction) Acts shall not be interfered with in respect of Orders under this Act. (Sec. 156.)

3. POWER OF ENTRY FOR INSPECTION, ETC., is given to any person authorized in writing by the local authority or the Minister stating the particular purpose or purposes for which the entry is authorized. (Sec. 157.)

4. PENALTY FOR OBSTRUCTING EXECUTION OF ACT may be enforced against any person on summary conviction to an amount not exceeding twenty pounds. (Sec. 158.)

5. PENALTY FOR PREVENTING EXECUTION OF REPAIRS, ETC., may be enforced against any person by a court of summary jurisdiction. (Sec. 159.)

#### POWER OF THE COURT FOR HOUSING PURPOSES.

1. POWER OF THE COUNTY COURT TO DETERMINE LEASE WHERE PREMISES ARE DEMOLISHED in accordance with the Act are extended to part of premises. (Sec. 160.)

2. POWER OF COURT OF SUMMARY JURISDICTION to authorize owner to execute works on default of another owner. (Sec. 161.)

3. POWER OF THE HIGH COURT to authorize execution of works on unfit premises or for improvement on application made by a person entitled to any interest in any land used in whole or in part as a site for houses of the working classes. (Sec. 162.)

4. POWER OF COUNTY COURT to authorize conversion of houses into several tenements where, owing to changes in the character of the neighbourhood, the house cannot readily be let as a single tenement. (Sec. 163.)

#### NOTICES, ORDERS, ETC.

1. AUTHENTICATION OF ORDERS, NOTICES, ETC., shall be by writing and under the seal of the local authority and by the signature of their clerk or his lawful deputy. (Sec. 164.)

2. AUTHENTICATION OF CERTIFICATE of a local authority shall be by signature of the clerk to that authority. (Sec. 165.)

3. SERVICE OF NOTICES, ETC., ON LOCAL AUTHORITIES may be by delivery to the clerk or by registered post addressed to the authority or their clerk at their office. (Sec. 166.)

4. SERVICE OF NOTICES, ETC., ON OTHER PERSONS. (Sec. 167.)

5. POWER OF LOCAL AUTHORITY TO REQUIRE INFORMATION as

to ownership of premises by inquiries from occupier or any person who receives rent. (Sec. 168.)

#### DEFAULT OF LOCAL AUTHORITIES.

##### 1. POWERS OF COUNTY COUNCIL AND MINISTER IN THE EVENT OF DEFAULT OF RURAL DISTRICT COUNCIL.

(1) *Complaints* that the local authority have failed to exercise their powers under the Act—

(a) may be made to the county council by—

(i) the parish council or parish meeting of any parish comprised in any rural district in the county; or

(ii) any Justice of the Peace acting for such district;

(iii) any four or more local government electors of any such district; or

(b) if the county council are of opinion that an investigation should be made as to whether the council of any rural district have failed as aforesaid, there shall be a Public Local Inquiry held by the county council.

(2) If the county council are satisfied that there has been such a failure on the part of the district council they may—

(a) make an Order declaring the district council to be in default; and

(b) transfer to themselves all or any of the powers of the district council under the 1925 and 1930 Acts with respect to the whole or any part of the district. (Sec. 169.)

##### 2. POWERS OF MINISTER TO ACT IN THE EVENT OF DEFAULT BY COUNTY COUNCIL in the exercise of transferred powers.

(1) Upon representations made to the Minister in accordance with previous paragraph, the Minister may cause a public local inquiry to be held; and if satisfied that the county council have failed as aforesaid, he may either—

(a) make an order directing the county council to exercise such of the said powers in such manner and within such time as may be specified in his order; or

(b) make an order rendering any of the said powers exercisable by himself. (Sec. 17.)

##### 3. POWER OF MINISTER IN THE EVENT OF DEFAULT OF LOCAL AUTHORITY OTHER THAN RURAL DISTRICT COUNCIL.

In any case where—

(1) a complaint has been made to the Minister

(a) as respects the council of any non-county borough or urban district

(i) by the council of the county in which the borough or district is situate; or

(ii) by any Justice of the Peace acting for such district; or

(iii) by any four or more local government electors of the district; or

(b) as respects any local authority, not being the council of a non-county borough or of an urban or rural district

(i) by any Justice of the Peace acting for the area of the authority; or

(ii) by any four or more local government electors of the area of that authority;

that the local authority have failed to exercise their powers under the Act in any case where these powers ought to have been exercised; or

(2) the Minister is of opinion that an investigation should be made as to whether any local authority (not being a rural district council) have failed as aforesaid;

the Minister may cause a public local inquiry to be held and, if after the inquiry has been held he is satisfied that there has been such a failure on the part of the local authority, he may

(a) Make an order declaring the local authority to be in default, and

(b) Direct the county council to exercise such of the obligations of the local authority as may be specified for the purpose of remedying the default. (Sec. 171.)

#### 4. PROVISIONS AS TO ORDERS DIRECTING COUNTY COUNCIL TO PERFORM OBLIGATIONS OF URBAN DISTRICT COUNCILS.

(1) An order directing a county council to perform any obligations of the council of a non-county borough or of an urban district may—

(a) for the purposes of enabling the county council to comply with the order, transfer to the county council any of the powers conferred by this Act on local authorities;

(b) provide that Sec. 63 of the Local Government Act, 1894, shall apply subject to such modifications and adaptations as may be specified in the order. (Sec. 172.)

#### GENERAL POWERS OF MINISTER.

1. POWER OF MINISTER TO PRESCRIBE FORMS and to dispense with advertisements and notices is contained in Section 176.

2. REGULATIONS made by the Minister are to be laid before each House of Parliament. (Sec. 177.)

3. LOCAL INQUIRIES by the Minister may be held as he may think fit. The Public Health Act, 1875, Secs. 293 to 295, and 298 shall apply for the purpose of any Order to be made by the Minister in pursuance of this Act. (Sec. 178.)

4. POWER OF MINISTER to obtain a report on any crowded area and to enforce upon the local authority the requirement of the Minister. (Sec. 179.)

5. ARRANGEMENTS may be made between the Minister and other Government Departments for the exercise and performance of any of his powers and duties under this Act. (Sec. 180.)

#### MISCELLANEOUS PROVISIONS AS TO LONDON.

1. RELATIONS between local authorities in London. (Sec. 181.)
2. AGREEMENTS may be entered into between London County Council and neighbouring authorities as to provision of houses to meet the special need of the Council. (Sec. 182.)
3. PROVISIONS as to Medical Officers of Health in London include power to appoint one or more MEDICAL OFFICER OF HEALTH for the purpose of this Act. (Sec. 183.)

4. A COMMITTEE OF THE COMMON COUNCIL of the City of London may be appointed for any purposes of this Act. (Sec. 184.)

5. PROHIBITION on persons interested voting as members of local authority in London. (Sec. 185.)

6. LOCAL INQUIRIES IN LONDON shall be paid for in such proportions as the Minister may determine by the local authorities and persons concerned. (Sec. 186.)

#### PART VIII. SUPPLEMENTAL

1. POWERS of Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament, etc. (Sec. 187.)

2. INTERPRETATION has been set out in the preceding appropriate paragraphs and are given in detail in Section 188.

3. SAVINGS are provided for in Section 189.

4. REPEALS are contained in the Twelfth Schedule. (Sec. 190.)

#### HOUSING (RURAL WORKERS) ACTS, 1926 to 1938

The Housing (Rural Workers) Acts, 1926 to 1938, authorize the councils of counties and county boroughs to make grants and loans to owners of houses let to agricultural or similar workers for the improvement of their houses. The maximum grant in respect of any house is £100 or two-thirds of the cost of improvement, whichever is less. If additional assistance is provided for the abatement of overcrowding, the maximum grant may be increased to £150.

#### THE SMALL DWELLING ACQUISITION ACTS

The Small Dwelling Acquisition Act, 1899, and Part III of the Housing and Town Planning, etc., Acts 1919 to 1923, as amended by the Housing Act, 1935, may be adopted by the local authorities responsible for housing.

The following are the provisions as amended—

(1) An advance not exceeding 90 per cent of the market value under that Act may be made to a person for the purpose of acquiring a house in which he intends to reside.

(2) The market value is to be ascertained by means of a valuation duly made on behalf of the local authority.

(3) The limit on the market value of houses in respect of which advances may be made had been increased from £800 to £1,200, but was reduced to £800 by the Housing Act, 1935. The maximum value increased to £1,500 by Housing Act, 1925, Sec. 95, in respect of houses in course of erection was similarly reduced.

(4) When an advance is made in respect of a house in course of construction the advance may be made by instalments from time to time as the building of the house progresses, so that the total advance does not at any time before the completion of the house exceed 50 per cent of the value of the work done up to that time on the construction, including the value of the site.

(5) The statutory condition requiring the proprietor of a house in respect of which an advance has been made to reside in the house shall have effect for a period of three years from the date when advance is made or the house is completed but no longer; and compliance with this condition may at any time be dispensed with by the local authority.

(6) A person is not to be disqualified from being elected as or being a member of the local authority by reason only of the fact that an advance is made to him under the Act. But a member must disclose his interest in the matter to the meeting and must not take any part in the consideration or voting on the subject. (Local Government Act, 1933, Sec. 76.)

(7) The rate of interest on advances since the passing of the Housing Act, 1935, must not exceed  $\frac{1}{2}$  per cent above the rate at which authorities borrow from the Public Works Loan Board.

(8) Under the Act of 1899, Sec. 2 (c), the property in respect of which an advance is made must first be vested in the local authority subject to redemption which, under the Act of 1919, Sec. 49 (d), may be by receipt under seal in the form of the Fourth Schedule to that Act having the legal effect specified in Part II of that Schedule.

(9) The statutory receipt does not require a stamp. (Act 1919, Sec. 49, Proviso (1).) This effect is apparently the same as that of the Law of Property Act, 1925.

(10) Similar powers are contained in Sec. 91 of the Housing Act, 1936, for the provision of new accommodation since April, 1923. No rate of interest is prescribed, but the size must be approved, usually 620 sup. ft. for houses, and 550 sup. ft. for flats.

## CHAPTER XIV

### TOWN AND COUNTRY PLANNING

THE EARLIEST FORM is to be seen in the rectangular streets in Egypt, Greece, and Rome. The system was revived at the time of the Renaissance, followed by the planning of Bath, Edinburgh, and the numerous squares in the West End of London.

LEGISLATION is now contained in the Town and Country Planning Act, 1932. Other Acts which require consideration include the Lands Clauses Consolidation Act, 1845, the Town Improvement Clauses Act, 1847, the Public Health Acts, the Housing Acts, the Local Government Act, 1933, and the Restriction of Ribbon Development Act, 1935.

THE TOWN AND COUNTRY PLANNING ACT, 1932, is described as "An Act to authorize the making of schemes with respect to the development and planning of land, whether urban or rural, and in that connection to repeal and re-enact with amendments the enactments relating to town planning, to provide for the protection of rural amenities and the preservation of buildings and other objects of interest and beauty, to facilitate the acquisition of land for garden cities, and to make other provisions in connection with the matters aforesaid."

It came into operation on 1st April, 1933, and does not apply to Northern Ireland.

LOCAL AUTHORITY for the purposes of the Act—

- (1) The City of London: the Common Council.
- (2) The County of London: The London County Council.
- (3) Elsewhere: the councils of county boroughs and county districts.

The council of any county district may at any time by agreement relinquish in favour of the county council any of their powers and duties.

COMMITTEE.

(1) A local authority or a county council may appoint a committee for any purposes of the Act and may delegate to the committee with or without restrictions or conditions any of their powers, except the power to levy a rate or borrow money.

(2) At least three-fourths of the members of the committee shall be members of the appointing authority.

(3) The London County Council (General Powers) Act, 1934, makes special provision for the administrative County of London.

JOINT COMMITTEES may be constituted by two or more authorities or county councils, who may delegate with or without restrictions to that Committee any powers other than the power to borrow money or levy a rate. (*A.-G. v. Barnes Council*, 1938.)

RESPONSIBLE AUTHORITY may, pursuant to Section 11 (2) of the Act, be specified in the scheme as—

(a) Any one of the following authorities—

- (i) The local authority within whose district any land to which the scheme applies or any neighbouring land is situate; or
- (ii) A county council; or
- (iii) A joint body specially constituted;

(b) Any two or more such authorities as aforesaid

#### PROCEDURE WITH RESPECT TO SCHEMES

Procedure may be divided into three stages—

Stage I: Resolution to Prepare a Scheme.

Stage II: Preparation and Adoption of Draft Scheme.

Stage III: Approval of Scheme.

Stage Optional: Preliminary Statement.

THE TOWN AND COUNTRY PLANNING REGULATIONS, 1933, issued by the Minister governing the procedure, are fully dealt with in *The Law of Housing and Planning*. Fourth Edition. (Pitman.)

#### STAGE I: RESOLUTION TO PREPARE A SCHEME

Section 6 provides that schemes may be prepared by—

- (a) A local authority;
- (b) A joint committee duly authorized; or
- (c) All or any of the owners of land.

Section 3 empowers the Minister of Health to compel an authority to

- (i) Prepare a scheme; or
- (ii) Adopt a scheme which he has prepared.

#### NOTICES IN RELATION TO THE MAKING OF OR UNDER SCHEMES.

(1) Resolution by local authority or joint committee.

The Land Charges Act, 1925, Section 15 (7), provides that such resolution shall be deemed a restrictive covenant and registered as a local land charge.

(2) Approval of resolution by the Minister.

(3) Notice of the resolution published in—

- (i) The *London Gazette*; and
- (ii) A local newspaper at least once during each of two successive weeks.

(4) Notice served within six months after the resolution takes effect in the case of every hereditament in the area on the person shown as

- (i) The occupier thereof in the latest assessment to Income Tax under Schedule A; and
- (ii) The owner thereof.

(5) Notice shall contain—

- (a) Concise statement of the effect of the resolution; and
- (b) Statement as to the right of persons concerned to have their names registered for the purpose of the service of subsequent notices; and
- (c) A direction to the recipient to transmit it forthwith to the person, if any, to whom he pays rent for the property.

#### STAGE II: PREPARATION AND ADOPTION OF DRAFT SCHEME

1. A scheme prepared or adopted by a local authority or joint committee shall require the approval of the Minister, and the Minister may approve any scheme with or without modifications.

##### MODEL CLAUSES—

In default of General Provisions and as a more detailed guide to local authorities the Minister issued in 1935 a set of Model Clauses for use in the preparation of Draft Schemes.

A revised edition was issued in 1938 and is dealt with in *The Law of Housing and Planning*. Fourth Edition. (Pitman.)

#### STAGE III: APPROVAL OF SCHEME

(1) The provisions of Section 8 and Parts I and II of the First Schedule to the Act shall have effect with respect to the laying of schemes before Parliament, the validity of schemes, and the dates on which schemes are to come into operation.

(2) A scheme may be varied, or may be revoked, by a subsequent scheme prepared, or adopted and approved in accordance with this Act and any regulations made thereunder.

(3) The Minister shall not make any variation in the scheme unless he is satisfied that it will not involve any substantial additional expenditure by the responsible authority.

#### SUPPLEMENTARY SCHEMES.

1. Where a regional scheme made by a joint committee is in operation, any local authority or joint committee may, by resolution, decide to prepare a supplementary scheme with respect to any land to which the regional scheme applies.

2. Supplementary scheme shall incorporate with or without

modifications all such provisions of the regional scheme as related to the area, and may include such additional provisions as appear to be necessary or desirable.

3. A resolution to prepare or adopt a supplementary scheme shall not affect the operation of the regional scheme, but as from the date on which the supplementary scheme comes into operation it shall so far as respects the area to which it applies, have the effect of revoking the regional scheme.

4. In Section 9 the expression "Regional Scheme" means a scheme made by a joint committee.

#### INTERIM DEVELOPMENT OF LAND.

1. Section 10 provides that the Minister—

(a) Shall make a General Order with respect to the interim development of land within the areas to which resolutions to prepare or adopt a scheme apply; and

(b) May make Special Orders with respect to the interim development of any such land on any particular area.

2. The Interim Development Order may itself permit the development of land.

3. (a) Where application for permission to develop land is made to the specified authority, the authority may grant the application or refuse the application.

(b) In order to avoid delay, the Act provides that an application shall be deemed to have been granted if it is not decided within two months, unless extended time is agreed. (Sec. 10 (3).)

4. Local Authorities are now empowered to contribute towards loss or expenses incurred in consequence of the refusal of an application to develop or of conditions attached to a permission.

5. There is an appeal to the Minister from a refusal to permit a proposed development.

#### CONTENTS AND EFFECT OF SCHEME—

Section 11 and the Second Schedule of the Act give the matters to be dealt with by schemes, viz.—

1. Streets, roads, and other ways, and stopping up or diversion of existing highways including churchways.

2. Buildings, structures, and erections.

3. Open spaces, private and public.

4. The reservation of sites for places of religious worship or for houses for the residence of officiating ministers or burial places in connection therewith.

5. The reservation of land as sites for aerodromes.

6. The prohibition, regulation, and control of the deposit or disposal of waste materials and refuse.

7. Sewerage, drainage, and sewage disposal.
8. Lighting.
9. Water supply.
10. Ancillary or consequential works.
11. Extinction or variation of private rights of way and other easements.
12. Dealing with or disposal of land acquired by the responsible authority or by a local authority.
13. Power of entry and inspection.
14. Power of the responsible authority to remove, alter, or demolish any obstructive work.
15. Power of the responsible authority to make agreements with owners, and of owners to make agreements with one another.
16. Power of the responsible authority or a local authority to accept any property whether real or personal for the furtherance of the objects of any scheme, and provision for regulating the administration of any such money or property and for the exemption of any assurance with respect to money or property so accepted from enrolment under the Mortmain and Charitable Uses Act, 1888.
17. Application with the necessary modifications and adaptations of statutory enactments.
18. Carrying out and supplementing the provisions of this Act for enforcing schemes, and for that purpose imposing pecuniary penalties for breach of or failure to comply with schemes and making provision for the recovery thereof in a court of summary jurisdiction.
19. Limitation of time for operation of scheme.
20. Co-operation of the responsible authority with the owners of land included in the scheme or other persons interested.
21. Charging on any land the value of which is increased by the operation of a scheme the sum required to be paid in respect of that increase, and for that purpose applying, with the necessary adaptations, the provisions of any enactments dealing with charges for improvements of land.

PROVISIONS IN SCHEMES WITH RESPECT TO BUILDINGS AND BUILDING OPERATIONS.

- (1) Provisions to be inserted in a scheme under Section 12 may have respect to buildings and building operations.
- (2) Any person aggrieved by a decision of the responsible authority may appeal either to—
  - (i) A court of summary jurisdiction; or
  - (ii) A tribunal to be constituted for the purpose of the scheme.

POWER TO ENFORCE AND CARRY INTO EFFECT SCHEMES.

Detailed rules of procedure to be followed by the responsible

authority in enforcing and carrying schemes into effect are prescribed by Section 13.

#### POWER AS TO MATTERS NOT FINALLY DEALT WITH BY SCHEME

##### SUPPLEMENTARY ORDERS.

Provisions may be inserted in any scheme empowering any—

- (a) Responsible authority; or
- (b) Local authority; or
- (c) County council concerned who are not a responsible authority—
  - (i) To make Supplementary Orders; or
  - (ii) To adopt, with or without modifications—Supplementary Orders proposed by owners of land for supplementing the provisions of the scheme.

##### GENERAL DEVELOPMENT ORDERS.

The responsible authority may, by a General Development Order under Section 15, permit building operations to proceed, subject to such conditions as may be specified in the order, on any land as respects which the provisions of a scheme prohibit or restrict building operations pending the coming into operation of a General Development Order.

##### ORDERS FOR PRESERVATION OF CERTAIN BUILDINGS.

Where the resolution to adopt a scheme has taken effect—

(a) The council of the county borough, or county district; or  
 (b) The council of the county comprising the district, may at any time make an order with respect to any building of special architectural or historical interest within that area directing that without their consent the building shall not be demolished, and may at any time vary or revoke an order so made by them.

##### COMPENSATION.

(1) Any person whose property is injuriously affected by the coming into operation of a planning scheme is entitled to compensation from the responsible authority.

(2) The scheme may provide that no compensation is payable on account of any provisions which (a) prescribe the space about buildings; or (b) limit the number of buildings to be erected; or (c) prescribe the height or character of buildings.

(3) (a) If a scheme is revoked, any person incurring expenditure in complying with the scheme is entitled to compensation. (b) Specific reference is made to injury to trade, business, or profession.

(4) Where property is sold before approval of Scheme by

Minister compensation is payable to purchaser. (*Markham v. Derby Corporation*, [1934] Ch.D.)

**BETTERMENT.**

1. Where any property is increased in value by—

(i) The coming into operation of any provision contained in a scheme; or

(ii) The execution by a responsible authority of any work; the responsible authority, if within—

(a) Twelve months after the date on which the provision came into operation;

(b) Such longer period as may be specified in the scheme; or

(c) Twelve months after the completion of the work

claim is made in that behalf, may, subject to the provisions of this Act, recover from the person whose property is so increased in value an amount not exceeding 75 per cent of the amount of that increase.

2. There are numerous provisos to this power and Sec. 21 of the Act should be studied carefully in detail.

3. Betterment may arise in respect of land abutting on the area of a Scheme. (*Rex v. Webster ex parte Young*, [1934] K.B.)

**PURCHASE OF LAND**

**ACQUISITION OF LAND TO WHICH A SCHEME APPLIES.**

1. The responsible authority may acquire land, compulsorily if need be, for the purposes of the scheme and in particular:

(a) For controlling the development of frontages;

(b) For securing the satisfactory development of any land in accordance with the scheme;

(c) Which forms the site of a highway which has been stopped up; or

(d) Which they require for the purpose of providing accommodation for a person dispossessed under a scheme.

2. Land may be acquired for Open Spaces and Playing Fields in areas covered by Planning Schemes (Section 26).

3. Land may also be acquired for garden cities, garden suburbs, and garden villages. (See below.)

**SUPPLEMENTAL PROVISIONS WITH RESPECT TO SCHEMES**  
include—

1. Limitation of street work charges. (Section 27.)

2. Power to contribute towards expenses of owners in connection with the proposal of schemes. (Section 28.)

3. Power of county council to assist in preparation of schemes.

4. Contributions by local authorities and statutory undertakers towards expenses of, or in connection with, schemes. (Sections 30 and 31.)

5. Application of betterment as capital. (Section 32.)
6. Power of public departments to make agreements in connection with schemes. (Section 33.)
7. Power of authorities and owners to enter into agreement restricting the use of land. (Section 34.)

#### PROVISIONS AS TO GARDEN CITIES.

Land may be acquired by the Minister either by agreement or compulsorily on behalf of (a) any local authority; or (b) two or more local authorities including a county council; or (c) any authorized association to develop it as a garden city, or as an extension of an existing garden city.

#### DEFAULT.

If the local authority fail to do their duty in any respect, the Minister of Health may enforce compliance by *writ of mandamus*. In certain circumstances the Minister may himself act or empower the county council to do so at the expense of the local authority.

#### LEGAL PROCEEDINGS.

1. Appeal to Quarter Sessions lies from a decision of a court of summary jurisdiction within 28 days after the date of the decision.
2. Power is given to refer certain disputes to arbitration or to the Minister.

#### MISCELLANEOUS PROVISIONS.

1. No provision contained in a scheme shall apply to any land or any building erected thereon which belongs to any statutory undertakers without their consent. (Section 41.)
2. Consultations with Commissioners of Works to take place as to schemes affecting a building of special architectural or historic interest. (Section 42.)
3. Where a local authority or a joint committee propose to include in a scheme any land situated within the prescribed distance from any of the royal palaces or parks they must communicate with the Commissioners of Works. (Section 43.)
4. No works can be authorized whether of construction, demolition, or alteration on, over or under tidal lands below high water mark except with the consent of the Board of Trade. (Section 44.)
5. Powers as to the preservation of single trees and groups of trees, and areas of woodland. (Section 46.)

THE PETROLEUM (CONSOLIDATION) ACT, 1928, Sec. 15, provides that, for the purpose of preserving for the enjoyment of the public the amenities of any rural scenery or of any place of beauty or historic interest or of any public park or pleasure promenade or of any street or place which is of interest by reason

of its picturesque character, the council of any county or borough may make by-laws

- (a) regulating the appearance of petroleum-filling stations; or
- (b) prohibiting the establishment of petroleum-filling stations in any part of their area to which the by-laws apply.

#### POWERS WITH RESPECT TO ADVERTISEMENTS.

The Advertisements Regulation Act, 1925, amends the Act of 1907 and prohibits advertisements which disfigure or injuriously affect rural views, amenities of villages or historic buildings. Exemptions include railway stations and urban docks, harbours and canals.

Section 47 of the Act of 1932 provides that—

(1) Where a responsible authority consider that an advertisement or a hoarding injuriously affects the amenity of land they may serve—

- (a) Notice on the owner of the advertisement or hoarding requiring him to remove it within not less than twenty-eight days; and

- (b) A copy upon the owner and occupier of the land.

(2) Appeal lies by notice in writing to—

- (i) Clerk of the court of summary jurisdiction; and

- (ii) The responsible authority within twenty-eight days.

EXPENSES of Local Authority for the purposes of town and country planning are defrayed as expenses of the authority under the Public Health Acts.

#### LOANS.

(1) In the provinces: The provisions of the Local Government Act, 1933, Part IX apply in respect of borrowing.

(2) In the City of London: The City of London Sewers Acts, 1848 to 1897.

(3) In County of London: The London County Council (Finance Consolidation) Act, 1912, as amended.

Repayment may be spread over a period not exceeding eighty years.

LONDON SQUARES were the subject of a Royal Commission which recommended that in the public interest all the enclosures, with the exception of five, should be permanently preserved as open spaces.

The London Squares Preservation Act, 1931, was promoted by the London County Council to carry out the principal recommendations of the Commission.

The subject of Planning is dealt with more fully in *The Law of Housing and Planning*. Fourth Edition. (Pitman.)

## CHAPTER XV

### THE ADOPTIVE ACTS AND THE AGRICULTURAL ACTS

1. THE ADOPTIVE ACTS constitute a form of tentative legislation and are examples of permissive Local Government legislation. The Acts confer powers on any local authority which pass a resolution of adoption and give the prescribed public notice thereof.

The modern practice is not to have Adoptive Acts, but to include permissive powers in the appropriate consolidating Acts. (See Baths and Washhouses, page 117.) These Acts may be divided into two classes, viz.—

(1) Sanitary Adoptive Acts which may be adopted by any sanitary authority, viz, county borough and district councils.

(2) Parochial Adoptive Acts which may be adopted by any Parish Meeting or by any Urban District, Borough, or County Borough Council.

#### 2. SANITARY ADOPTIVE ACTS include—

(1) *Public Health Acts (Interments) Act*, 1879, enabling urban or rural sanitary authorities to provide and maintain cemeteries. The Minister of Health has power to compel a sanitary authority to provide a cemetery, or a crematorium.

(2) *Public Health Acts Amendment Act*, 1890.

The Act is divided into nine Parts as follows—

Part I, General; Part V, Stock (repealed by Local Government Act, 1933), and Part IX are dealt with in their relative chapters.

Part III, Sanitary and Other Provisions, may be adopted by any rural sanitary authority. Part II, Telegraph, etc., wires, and Part IV, Music and Dancing, may be adopted by any urban sanitary authority.

(3) *Museum and Gymnasium Act*, 1891, is now incorporated in the Physical Training and Recreation Act, 1937. (See page 178.)

(4) *Private Street Works Act*, 1892, providing facilities for the recovery, from the owner, of expenses of making private streets. (See Chapter XVIII.)

(5) *Open Spaces Act*, 1906, empowering local authorities to take over, from trustees or corporations (other than municipal

<sup>1</sup> Partly Repealed by Public Health Act, 1936.

corporations) under local Acts, open spaces and burial grounds, including disused burial grounds. Local authorities may acquire and maintain open spaces or burial grounds and make by-laws for the regulation thereof.

(6) *Public Health Acts Amendment Act*, 1907, is adoptive by order of Ministry of Health either an urban or a rural authority. It is in part repealed by the Public Health Act, 1936. (See Chapter XII as to unrepealed provisions.)

(7) *Public Health Act*, 1925, is adoptive as to Parts II to V by an urban authority and as to Parts II to IV by a rural district council. (See Chapter XII as to unrepealed provisions.)

### 3. PAROCHIAL ADOPTIVE ACTS include—

(1) *Lighting and Watching Act*, 1833, enabling a parish to provide lamps or enter into contracts for the provision of lighting the roads, streets, etc. No authority to supply power.

(2) *Baths and Washhouses Acts*, 1846 to 1899, and Public Health Act, 1925, Part IX, are now consolidated in the Public Health Act, 1936, Part VIII, as permissive legislation. The Acts are "Adoptive Acts" for the purpose of the financial limitations on parish meetings. (See Chapter XII.)

(3) *Burial Acts*, 1852 to 1906, enable the Parish Council to be, or to be represented upon, the Burial Board. These Acts have been largely superseded by the Public Health Acts (Interments) Act, 1879, referred to on the previous page.

(4) *Public Improvement Act*, 1860, makes provision for village greens and recreation grounds, etc., where population is 500, limited to an expense equal to a rate of 8d. in the £.

(5) *Public Libraries Acts*, 1892 to 1919, provide that in rural areas any ten electors may demand a poll, upon the result of which, by a bare majority, a reference and lending library and museum may be provided. In urban areas a resolution of the council is sufficient.

The Public Libraries Act, 1919, abolished the maximum expenditure equal to a penny rate. County Councils are authorized to establish libraries for any borough or district within the county which does not already possess one.

## AGRICULTURAL ACTS

1. **THE MINISTRY OF AGRICULTURE AND FISHERIES ACT, 1919.** Part III established County Agricultural Committees. These are compulsory on every County Council (other than the London County Council), but optional for County Boroughs and the London County Council. The latter have not appointed a Committee.

Committee may include co-opted members. Duties include

the powers of the Council under the Destructive Insects and Pests Acts, 1877 and 1907; Diseases of Animals Acts, 1894 to 1935; Fertilizers and Feeding Stuffs Act, 1900; Land Drainage Act, 1930; Small Holdings and Allotments Act, 1908. Agricultural education may be referred to these Committees.

2. DISEASES OF ANIMALS ACT, 1935, extends the provisions of the law to poultry and regulates the manufacture, sale and importation of vaccines, sera, and similar substances.

#### SMALL HOLDINGS AND ALLOTMENTS

1. SMALL HOLDINGS AND ALLOTMENTS ACTS, 1908 TO 1926, AND THE LAND SETTLEMENT (FACILITIES) ACT, 1919, enact that allotments must be provided for the population by the Borough or District Council, or, in rural districts, the Parish Council. Land may be bought or hired compulsorily by means of a Provisional Order confirmed by the Ministry of Agriculture and Fisheries.

(1) A Small Holding is one which either exceeds one acre but does not exceed fifty acres in extent, or, where it exceeds the latter area, is not assessed for Income Tax beyond £100. The administration of Small Holdings is under the control of the County Council.

(2) An Allotment may not exceed an area of five acres, and may be provided by the council of any borough, urban district or parish. Any six registered parliamentary electors or ratepayers may make representations to the council; and the County Council must ascertain the extent of this demand except in boroughs.

(3) Apart from the question of extent, the essential difference between an allotment and a small holding in rural districts is that the former is obtained by the Parish and the latter by the County Council.

(4) The Small Holdings and Allotments Act, 1926, created a new type known as a Cottage Holding, being a holding including a rural dwelling house with not less than 40 perches of land.

(5) The Town and Country Planning Act, 1932, provides that every planning scheme must make provision for allotments.

2. THE SMALL HOLDING COLONIES ACTS, 1916 and 1918, provide that the Ministry of Agriculture and Fisheries for the purposes of the acquisition, equipment, and settlement of the area authorized to be acquired may, as respects any county, with the consent of the Council of that county, employ that council as their agents and vest in them all or any of their powers in addition to those vested in such council by virtue of the Small Holdings and Allotments Act, 1908.

3. THE ALLOTMENTS ACT, 1922, provides that holders cannot be dispossessed and their tenancies terminated except by a six

months' notice expiring on or before 6th April, or on or after 29th September, or, where the land is required for building or similar purposes, by a three months' previous notice.

Every local authority with a population of 10,000 or 400 allotments must set up an Allotments Committee, upon which representatives of the allotment holders must be appointed. (See Allotments Act, 1925, below.)

4. THE SMALL HOLDINGS AND ALLOTMENTS ACT, 1926, provides that it shall be the duty of the County Council to provide small holdings if they are of opinion that they can do so without incurring loss. If there is a prospect of loss, it is still lawful, but not compulsory, for the Council to proceed. To purchasers of small holdings, the County Council may lend nine-tenths of the purchase money, and may make advances for the equipment.

5. THE ALLOTMENTS ACT, 1925, is largely concerned with providing facilities for the acquisition and maintenance of allotments by empowering local authorities to borrow money from the Public Works Loan Board, and, where allotments are taken over for some other public purpose, the local authorities are called upon to provide alternative land. It enacts that an Allotments Committee must be appointed where the total number of allotments provided by the council of a borough or urban district exceeds four hundred and irrespective of population.

6. THE AGRICULTURAL RETURNS ACT, 1925, enables the Ministry of Agriculture to collect facts in relation to agriculture from the occupiers or managers of agricultural land.

7. THE AGRICULTURE ACT, 1937, constituted a Land Fertilizing Committee and established a national Veterinary Service.

#### LAND DRAINAGE

THE LAND DRAINAGE ACT, 1930. This Act was largely the result of the findings of the Royal Commission on Land Drainage which issued its Report in December, 1927. The chief objects of the Act may be stated as follows, viz.—

- (1) Consolidation of Land Drainage legislation.
- (2) Reform of areas and authorities to provide:
  - (a) More uniform administration.
  - (b) Larger main drainage areas.
  - (c) A wider basis of chargeability.
- (3) Adjustment of incidence of rates between:
  - (a) Uplands and lowlands.
  - (b) Agricultural and other interests.
  - (c) Owners and occupiers.

THE LOCAL AUTHORITIES under the Act are Drainage Boards, which may be—

1. *Catchment Boards* for new catchment areas.
2. *Internal Drainage Boards* for drainage districts within catchment areas.
3. *Drainage Boards* for districts outside catchment areas.

The Drainage Boards may be existing boards or newly established by order of the Minister of Agriculture and Fisheries.

The Internal Boards may be existing boards within the catchment area or new boards constituted under the scheme of re-organization which each Catchment Board is required to prepare.

The *Catchment Boards* are newly established authorities set up for catchment areas formed for purposes of *Main Drainage*. They will have full control of the banks and channel of the *main* river and also work in close collaboration with the Internal Boards.

Certain areas are specified in the First Schedule as catchment areas, and the Minister is empowered, upon application of a County or County Borough Council, or as he thinks fit, to dissolve, re-group, or constitute new catchment areas.

4. *The Functions of Internal Drainage Boards* (i.e. boards of subdivisions of the area) will be the construction, maintenance, and improvement of watercourses and the outfall of water, or any defence against water.

The County or County Borough Council is empowered to make application to the Catchment Board for the transfer to them of the Internal Drainage Board's functions if it is in default.

For land outside catchment areas, the Minister may constitute any separate drainage district by Order. A County Borough Council may petition for such an Order, but in the event of the petition being refused the Council would have to bear the expense.

County and County Borough Councils also possess all the powers of a board with regard to the enforcement of repairs to watercourses and the removal of obstructions.

For "small areas" the Council will be empowered to acquire all the functions of a board. The "small area" is defined as one where the only works required would be of a minor nature, i.e. not exceeding £5 per acre, or £5,000 in all.

5. *Finance*. Catchment Boards derive their funds from—

(1) Precepts on each County or County Borough Council—limit of 2d. in the £ unless consent given to a larger sum by a majority of the representatives.

(2) Contributions from Internal Drainage Boards.

The Drainage Boards will levy a Special Drainage Rate assessed on Schedule A gross values, and non-agricultural properties must be rated at one-third of their annual values. De-rating does not apply to rates levied by Land Drainage Boards.

## CHAPTER XVI

### PUBLIC UNDERTAKINGS

1. **DEFINITION.** The term Municipal Trading is applied to those services for the use of which local authorities make a charge (otherwise than by means of rates) to the persons benefited. Such services are in the nature of trading undertakings. The term "trading undertaking" may be taken to mean gasworks, waterworks, electricity and passenger transport undertakings, and any other exceptional undertakings (such as harbours, aerodromes, and ferries) which are carried on under local Acts and in respect of which it is requisite to arrive at an accurate statement of profit and loss.

2. **CERTAIN OTHER SERVICES** which are carried on by local authorities under their general statutory powers and which, though not expected to be profitable, might reasonably be expected to support themselves independently of the rates, may also be classified under this head. To this class belong housing schemes, carried on under the general law; and all such works as are rechargeable, partly or entirely, to others, as in the case of private street works and improvements.

#### 3. CLASSES OF UNDERTAKINGS—

- (i) Those having a monopoly—
  - (a) and a profit, e.g. tramways, markets, electricity, and gasworks.
  - (b) with no profit, e.g. waterworks, cemeteries.
- (ii) Those without a monopoly—
  - (a) But with a profit, e.g. by-products, such as slabs manufactured from clinkers, coke, and tar.
  - (b) with no profit, e.g. baths, housing schemes.

#### 4. CAUSES OF DEVELOPMENT—

(1) Prevention of private exploitation of public services by diverting private profits to local use; (2) Zeal of permanent officials, who desire the extension of municipal enterprise; (3) Increasing tendency for private undertakings to combine to the disadvantage of the public; (4) Public desire for a voice in the management of public services.

#### 5. ADVANTAGES CLAIMED by supporters of municipal trading—

- (1) It is in the interest of public health and convenience.
- (2) Provision is made for reduced prices, and improved services.

(3) Profits pass to the improvement or extension of the undertaking or relief of the rates, and not into the hands of a limited number of shareholders.

(4) Essential services are maintained during periods of depression and loss.

(5) Public administration promotes efficiency.

(6) Financial stability is secured by Government control.

#### 6. DISADVANTAGES URGED by opponents of municipal trading—

(1) Lowering of the general efficiency of local authorities.

(2) Possibility of corruption in administration.

(3) Less efficient and more expensive than private enterprise.

(4) Diminishes competition and checks enterprise; although these may exist among local authorities.

(5) Unit of consumption may remain static; whereas scale of economic production may expand.

(6) Increased debt may militate against the general borrowing powers of local government authorities.

### PRINCIPAL UNDERTAKINGS

(1) MARKETS; under the Food and Drugs Act, 1938.

(2) WATER; under the Public Health Acts incorporating the Gas and Water Works Facilities Act, 1870. (See Chapter XII.)

(3) BATHS AND WASHHOUSES. The legislation is now contained in the Public Health Act, 1936. (See Chapter XII.)

(4) GAS SUPPLY; under the Gas and Water Works Facilities Act, 1870, and the Gas Regulation Acts, 1920 to 1934.

(5) THE HEALTH RESORTS AND WATERING PLACES ACT, 1936, repeals and re-acts in an amended form the Act of 1921. It provides that the Council of any borough or urban district may advertise within the British Isles the advantages and amenities of the borough or district as a health resort or watering-place. The Council is limited to expenditure out of rates to an amount not exceeding a rate of one and one-third pence in the pound.

(6) THE LOCAL AUTHORITIES (PUBLICITY) ACT, 1931, enables local authorities to assist to the extent of one halfpenny rate the publicity outside the British Isles of the amenities and advantages of the British Isles.

Many local authorities have private Acts of Parliament which supplement their powers under the above-mentioned Acts.

7. MUNICIPAL SAVINGS BANKS. Local authorities have no general powers to establish ordinary Savings Banks such as that established by the Birmingham Corporation under a private Act of Parliament in 1919. A Committee appointed by the

Treasury reported in January, 1928, against an extension of the system to individual authorities mainly on the grounds of danger to the general financial system.

Birkenhead, Cardiff, and some other authorities subsequently obtained powers by private Acts in 1930 to establish Savings Banks but have not done so. There are seven Scottish Municipal Banks, but these are established on quite a different basis. Barnsley has adopted the Scottish system.

8. MUNICIPAL LOTTERY. The first municipal lottery took place at Birmingham in November, 1919. This was open to depositors in the Municipal Savings Bank.

9. TRAMWAYS; under the Tramways Act, 1870. Provisional Orders authorizing the construction of tramways in any district may be obtained by—

- (1) The local authority of such district, viz. the council of a parish, district or borough; or by
- (2) any person, persons, corporation or company, with the consent of the local authority of the district.

#### FINAL REPORT OF THE ROYAL COMMISSION ON TRANSPORT

(1) The Third and Final Report of the Royal Commission on Transport, dealing with the Co-ordination and Development of Transport, was published in January, 1931.

(2) Their considered view is that tramways, if not an obsolete form of transport, are at all events in a state of obsolescence, and cause much unnecessary congestion and considerable unnecessary danger to the public.

(3) They recommend, therefore—

- (a) That no additional tramways should be constructed; and
- (b) That, though no definite time limit can be laid down, they should gradually disappear and give place to other forms of transport.

10. LIGHT RAILWAYS; under the Light Railways Acts, 1896 to 1912. The council of any county, borough, or district may, if authorized by an Order under the Acts—

(a) Undertake themselves to construct and work, or to contract for the construction or working of, the light railway authorized;

(b) advance to a light railway company, either by way of loan or as part of the share capital of the company, or partly in one way and partly in the other, any amount authorized by the Order;

(c) join any other council or any person or body of persons in doing any of the things mentioned above; and

(d) do any such other act incidental to any of the things above mentioned as may be authorized by the Order.

11. ELECTRIC POWER; under the Electric Lighting Acts, 1882 to 1926.

*Electric Light (Claus) Act*, 1899, contains an important Schedule regulating the supply of electricity by authorized undertakers.

*The Electricity (Supply) Act*, 1919, provides for—

(a) The Minister of Transport to set up Electricity Commissioners not exceeding five in number, one being chairman.

(b) Joint Electricity authorities to be established by the Commissioners under schemes made by them.

(c) Duty of Joint Electricity Authority to provide or secure cheap and abundant supply of electricity.

*The Electricity (Supply) Act*, 1926, constituted a Central Electricity Board.

*The Electricity (Supply) Act*, 1935, supplemented the powers of the Central Electricity Board by empowering the Board to make arrangements directly with non-selected stations.

*The Electricity Supply (Meters) Act*, 1936, repeals the provisions of the Act of 1899 with reference to certifying and examining meters and provides for the appointment and functions of inspectors. The Act provides that the Electricity Commissioners shall appoint and keep appointed a sufficient number of competent and impartial persons as meter examiners.

The Court of Appeal decided in 1932 that the Minister of Transport has no power under Sec. 22 of the Electricity (Supply) Act, 1919, to determine the monetary payment to be made for the right to set up pylons. Compensation must be assessed by arbitration under the Acquisition of Land (Assessment of Compensation) Act, 1919.

12. FERRIES; by the Ferries Act, 1919, a County or a District Council may, with the consent of the Ministry of Transport, acquire and work an existing ferry. The tolls must be approved by the Ministry.

13. AERODROMES. *The Air Navigation Act*, 1920 (Sec. 8), enables any local authority, with the consent of the Air Council, to establish and maintain aerodromes, including power to provide and maintain roads and approaches buildings, and other accommodation and apparatus and equipment for such aerodromes, and to acquire land for that purpose. The local authorities to which this section applies are—

(a) The Common Council of the City of London;

- (b) the councils of counties and county boroughs; and
- (c) urban district councils.

*The Air Navigation Act*, 1936, repealed the application of the Public Works Facilities Act, 1930, to the purchase of land but introduced similar provisions whereby land may be acquired by a compulsory Purchase Order made by the local authority and confirmed by the Secretary of State.

**SUSPENSION OF SINKING FUND PAYMENTS.** The Local Government Act, 1933, provides that where money is borrowed by a local authority for an undertaking of a revenue producing character, then the annual provision for repayment may be suspended while the expenditure is unremunerative, but not for a longer period than five years. (Sec. 198 (2).)

**THE STATUTORY GAS COMPANIES (ELECTRICITY SUPPLY POWERS) ACT, 1925.** facilitates the supply of electricity by statutory gas companies.

**LOCAL AUTHORITIES AS PRINTERS.** In *Attorney-General v. Smethwick Corporation* (1931), Mr. Justice Eve held that a public authority may use direct labour in printing its own minutes, instead of arranging for it to be done by contract.

#### TRANSFER OF PROFITS to Rate Funds.

(1) *Arguments in favour include—*

- (a) Ratepayers' services as guarantors of undertaking.
- (b) Ratepayers' reward for efficiency benefits, e.g. Consolidated Loans Fund.
- (c) Economic effect of reduction of charges for supply services.
- (d) Low rates attract new industries and residents.
- (e) Attractive services of Pleasure Resorts should be rewarded.

(2) *Arguments against transfer include—*

- (a) Primary object of municipal enterprise violated, i.e. maximum utility at minimum prices.
- (b) Legislative condemnation, e.g. Electricity (Supply) Act, 1926.
- (c) Inequitable form of local taxation.
- (d) Militates against industrial development.
- (e) Weakens reserves of trading enterprises.
- (f) Detrimental to other spheres of local government.
- (g) Falsifies rate poundage comparisons.
- (h) Wrong use of profits for political propaganda.

Every proposal, therefore, should be carefully examined in the

light afforded by the progress of thought, the lessons of experience, and the demands of the public.

FINAL REPORT OF THE ROYAL COMMISSION ON LOCAL GOVERNMENT, 1929

*Part I. Functions of Local Authorities.*

- (a) Distribution of certain Functions between Local Authorities.
  - (1) Gas Meter Testing.
- (b) Other Questions affecting Powers and Duties of Local Authorities.
  - (1) Water Supplies.
  - (2) Publication of Provisional Orders made under the Gas and Waterworks Facilities Acts, 1870 and 1873, and the Tramways Act, 1870, should be discontinued. In lieu thereof an advertisement should be issued in a local newspaper substituted, and a copy of the order should be purchasable or be open to inspection.

The powers and duties are fully dealt with in *Local Government of the United Kingdom*. (Pitman.)

## CHAPTER XVII

### POLICE AND CIVIL DEFENCE

1. BROADLY speaking, the maintenance of public order is effected by two kinds of agencies, namely, the Police and the Courts of Justice. The former is obviously derived from the same word as Politics, and implies a close and essential connection with the work of the State. It is concerned rather with the prevention of violence than with the causes which lead to violence. The Police means the police force—the body of constables—the primary constitutional force for the protection of individuals in the enjoyment of their legal rights.

2. AN historical outline of the Police System is given in Chapter II. The maintenance of the King's Peace or the Peace of the Nation appears to have been the special duty of the Master of the Royal Stables or the *comes stabuli* (the constable). The office of High Constable was created by the Statute of Winchester, 1285. Petty Constables did not exist until the reign of Edward III. The village and the burgal watch was instituted in the thirteenth century. Until 1856 every township maintained its own parish constable.

3. POLICE AREAS AND AUTHORITIES of England and Wales are of five classes—

Police Area	Police Authority	Chief Officer of Police	Police Fund
The City of London	The Common Council	The Commissioner of City of London Police	City Police Rate
The Metropolitan Police Dist.	H.M. Secretary of State (for Home Affairs)	The Commissioner of Police of the Metropolis	The Metropolitan Police Fund
A County	The Standing Joint Committee	The Chief Constable	The County Fund
A Borough	The Watch Committee	The Chief Constable	The General Rate Fund
The River Tyne	The Tyne Improvement Commissioners	The Superintendent or other Officer	The Tonnage Rates and Dues

Apart from the Metropolitan Police, the police service is a branch of local government. The police officer executes a public office under the law.

4. THE CENTRAL AUTHORITY is the Home Secretary. By the County and Borough Police Act, 1856, power is given to the Crown to appoint inspectors of constabulary for visiting and inquiring into the state and efficiency of the force. Each inspector is required to report generally upon these matters to the Secretary of State. The Police Forces are formed into districts for the purposes of inspection.

5. COUNTY POLICE are appointed under the County and Borough Police Act, 1856, and the Local Government Act, 1888. By the latter statute the powers, duties and liabilities of quarter sessions and magistrates out of session, respecting the county police, are exercised and discharged through a Standing Joint Committee, consisting of an equal number of justices and of members of the County Council.

6. BOROUGH POLICE are appointed under the Police Acts, 1839 to 1919, and the Municipal Corporations Act, 1882, in boroughs having a population of not less than 10,000 at the 1881 Census. No new borough force can be established where the population is less than 20,000 at the Census taken next before the incorporation of the borough.

The Acts are administered by a Watch Committee, consisting of not more than one-third of the members of the Council, together with the Mayor, who is *ex officio* a member.

7. OFFICERS include—

(1) Chief Constable.	(4) Sergeants.
(2) Superintendents.	(5) Constables.
(3) Inspectors.	

8. DUTIES OF THE POLICE include—

- (a) The prevention and detection of crime;
- (b) The maintenance of order in streets and places of public resort;
- (c) Infant life protection;
- (d) Control of street trading;
- (e) Provision for public safety, including
  - (i) control of explosives and firearms,
  - (ii) fire prevention,
  - (iii) street traffic regulation,
  - (iv) registration of aliens;
- (f) Protection of public morals, including
  - (i) control of plays,
  - (ii) control of film exhibitions,
  - (iii) suppression of obscene books, films, and pictures,
  - (iv) suppression of street betting,
  - (v) suppression of illegal lotteries;
- (g) Control of vivisection;

- (h) Patrols under Road Traffic Act, 1930;
- (i) Civil Defence, including air raid precautions.

The powers and duties of constables depend upon the common law, and not upon statute. They may act within the borough or county and within 7 miles of the limits thereof. Within this radius they must obey the lawful demands of any Justice of the Peace. They have general power to arrest any idle or disorderly person found disturbing the peace or suspected of intention to commit a felony. Any person resisting a constable in the execution of his duty is liable to a fine of £5. Constables are under the special protection of the law, heavy penalties being incurred for assaults on them; and citizens must assist them if called upon.

THE RIOT DAMAGES ACT, 1886, makes provision for payment of compensation for losses by riots. Claims for compensation are to be made to the police authority.

9. FIRE POLICE. The Fire Brigade Act, 1938, imposes for the first time a statutory duty upon local authorities to make provision for the extinction of fires and the protection of life and property in case of fire, whether by providing a fire brigade themselves or making arrangements with other local authorities or voluntary bodies.

The Home Secretary may appoint a Fire Service Board to prepare schemes to be carried out in default of a local authority.

The local authorities are the councils of county boroughs and county districts.

No charges must be made for attendance at fires, although existing arrangements in this respect continue until July, 1940.

10. SUPERANNUATION is provided under the Police Pensions Act, 1921.

(1) The Act provides a compulsory age of retirement, when an officer is entitled to a pension as a matter of right.

(2) The amount of pension is not less than one-half nor more than two-thirds wages. After ten years' approved service and certified incapacity, he is entitled to an ordinary pension. At any time he is entitled to a special pension.

(3) Gratuities for under 10 years' service may be awarded where incapacity is not due to injury received in the execution of his duty and is without his own default.

(4) Pensions and gratuities to widows are given as follows—

(a) Where a police officer who joined the force after the 1st September, 1918, and has completed five years approved service, dies while in the force or whilst in receipt of a pension, the widow shall be entitled to a widow's ordinary pension.

(b) Where a police officer dies whilst serving in the force from the effects of an injury received in the execution of his

duty without his own default, or dies whilst on pension from the effects of such injury, his widow shall be entitled—

(i) Where the injury was accidental, to a widow's ordinary pension.

(ii) Where the injury was non-accidental, to a widow's special pension.

(c) Where a police officer dies whilst serving in the force and his widow is not entitled to a pension, his widow shall be entitled to a gratuity.

(d) Where a widow is entitled to a pension and the police authority are satisfied that there are special reasons for the grant of a gratuity in lieu thereof, the police authority may, at their discretion and with her consent, grant her a gratuity.

(e) A widow's ordinary pension means an amount under one of two alternative scales, subject to a deduction equal to 25 per cent of the amount for each complete year of husband's pension.

(f) A widow's special pension is equal to one-third of her husband's annual pay at the time of his death or retirement.

(5) Allowances and gratuities to children and dependents—

(a) Where a police officer dies whilst in the force, or within twelve months after the grant of a pension, or at any time from the effects of an injury received in the execution of his duty, without his default, his children under sixteen shall be entitled to allowance until they reach that age.

(b) Where a child is entitled to an allowance, the police authority may grant a gratuity.

(c) Where a police officer dies whilst serving in the force, or within twelve months after the grant of a pension, or at any time from the effects of an injury, the police authority may grant a gratuity to a relative.

(6) The Police Pensions Act, 1921, authorizes a police authority to—

(a) Guarantee pensions to officers who continue in the force after being entitled to retire on a pension without medical examination.

(b) Grant an allowance at a rate not exceeding  $12\frac{1}{2}$  per cent. of pay to such officers during such continuance. Any such allowance shall not be reckoned in the calculation of the amount of pension nor be subject to deductions.

(7) Payments of pensions, etc., are to be made out of the Police Fund instead of the Police Pension Fund, which was abolished by the Police Pensions Act, 1921. The Police Fund now receives the following amounts which previously went to the Police Pension Fund—

(a) Fines imposed by a court of summary jurisdiction—

(i) On members of a police force.

- (ii) For assaults on members of a police force.
- (iii) For other offences and awarded to informers being members of a police force.
- (iv) For offences under the Licensing Act.

(b) Fines and fees payable to or received by members of a police force, and any other sums directed to be carried to a pension fund of a police force.

(c) Income from investments.

(d) Rateable deductions by the police authority of every police force from the pay of every member of the force increased by the Police Pensions Act, 1926, to 5 per cent per annum of his pay. The above provisions do not apply to the county police in the three Divisions of Lincolnshire.

11. THE FIRE BRIGADE PENSIONS ACT, 1925, extends similar provisions to fire police.

12. EXPENSES. The Home Office makes a grant of half net approved expenditure as certified by the District Auditor. The balance is defrayed, in the case of a Borough, out of the General Rate Fund or Rate, and in a County out of the County Fund usually as a Special Expenses charge. Special provision is made for the other forces as shown on page 127, paragraph 3.

13. SPECIAL CONSTABLES act in cases of emergency. Where there are no volunteers, the office is, by the Special Constables Act of 1831, compulsory on appointment, by two justices, from among residents in the neighbourhood not exempt from serving as parish constables. A refusal to serve is punishable by a fine of £5. The Special Constables Act, 1923, made permanent the Special Constables Act, 1914, which conferred powers to make regulations with respect to special constables appointed during the Great War.

14. PARISH CONSTABLES are appointed under the Parish Constables Act, 1842, from among persons between the ages of 25 and 45, rated to the General or County Rate, and occupying tenements of an annual value of £4.

15. THE POLICE FEDERATION was established by the Police Act, 1919, for the purpose of enabling the members of the police forces of England and Wales to consider and bring to the notice of the police authorities and the Secretary of State all matters affecting their welfare and efficiency, other than questions of discipline and promotion affecting individuals. The police are forbidden to join any Trade Union or to cause any member of a force to withhold his services. The Federation consists of all members of the several police forces below the rank of superintendent. It acts through Branch Boards, Central Conferences, and Central Committees.

(1) *Branch.* The members of each police force below the rank of superintendent form a Branch of the Federation. In each

police force there are constituted three Branch Boards : one for constables ; one for sergeants ; and one for inspectors.

(2) *A Central Conference* for each rank is held annually in November. Each Conference consists of delegates elected in certain proportions by members of the Branch Boards of corresponding rank.

(3) *The Central Committee* elected by each Conference consists of six members, of whom two are elected by the Metropolitan and City of London Police Forces, two by the County Police Forces, and two by the Borough Police Forces. The Central Committee, either separately or as a Joint Central Committee, may submit representations in writing to the Secretary of State.

(4) *Police Councils* may be arranged by the Secretary of State for considering general questions affecting the police. These Councils consist of the Central Committee or the Joint Central Committee, or a deputation from either of these committees, with representatives of Police Authorities, Chief Officers, and Superintendents.

16. WOMEN PATROLS. The work of women in the police service was one of the features of the Great War. As a result of the recommendations of the Economy Committee, the women patrols were withdrawn in the Metropolitan Police area in 1922, but were subsequently re-instituted.

17. THE POLICE (APPEALS) ACT, 1927, provides for a right of appeal by members of police forces who are dismissed or required to resign. A member of a police force who is dismissed or required to resign as an alternative to dismissal, may appeal to the Home Secretary, in accordance with rules made under the Act, if he gives notice of appeal in the prescribed manner and within the prescribed time. On any such appeal the disciplinary authority becomes the respondent.

#### RECENT DEVELOPMENTS

1. EDUCATIONAL SCHEMES. The efficiency of the police forces has been enhanced in many counties and towns by a system of instruction in duties, civics, local government, etc. Promotion is frequently made dependent upon examination in these and kindred subjects.

2. METROPOLITAN POLICE COLLEGE, as outlined by a Departmental Committee which reported in 1930, was opened at Hendon by the Prince of Wales in May, 1934. At the same time he laid the Foundation Stone of the new Training School which is at present at Peel House, Westminster.

3. THE SELECT COMMITTEE ON POLICE FORCES AMALGAMATIONS issued their Report on 18th July, 1932. They stated they had come to the conclusion that the case of the Home Office that the

police forces of all boroughs with a population of under 75,000 should be merged with those of the County had not been made out.

4. BETTING AND LOTTERIES ACT, 1934, followed the recommendations of the Royal Commission on Lotteries and Betting appointed in June, 1932, under the Chairmanship of Sir Sidney Rowlatt. The principal provisions are contained in *Outlines of Central Government*, Ninth Edition.

#### CIVIL DEFENCE, INCLUDING AIR RAID PRECAUTIONS

The Home Office has set up a Special Air Raids Precautions Department to act on behalf of the various local authorities concerned in this matter.

THE AIR RAID PRECAUTIONS ACT, 1937, since 1939 the Civil Defence Act, 1937, requires councils of counties and county boroughs to draw up and submit to the Home Secretary for approval general Air Raid Precautions Schemes.

Fire Precaution Schemes must be drawn up and submitted by councils of boroughs and urban districts.

Grants are payable according to a scheme which provides that the councils receive their shares based upon the ratio which their figure of weighted population for block grant purposes bears to their unweighted population. Grants are increased where the expenditure exceeds a rate of 1d. in the £.

The Home Secretary has issued the Air Raid Precautions (Approval of Expenditure) Provisional Regulations, July, 1938.

THE CIVIL DEFENCE ACT, 1939, Part I, provides that the work shall be assigned to the appropriate Central Departments.

Part II. Public Shelters: Authorizes local authorities to "designate" private premises for use as public shelters or other A.R.P. purposes, and to execute any adaptation.

Part III. Private Shelters: The construction of an approved form of shelter will be obligatory for any establishment in the three categories mentioned in which more than thirty persons work, if it is situated in an area which the Minister has specified.

Part IV empowers the Minister to require appropriate measures to be taken relative to screening of lights in factories, mines, and public utility undertakings, and to camouflage.

Part V, Public Utility Undertakings, deals with measures to be adopted by public utility undertakers to see that their employees are trained and equipped for A.R.P. duties.

Part VII. Hospital Organization and Evacuation. Hospital organization is left to the Minister of Health. Local authorities are required to assist him in planning and executing evacuation schemes, approved expenses being reimbursed.

SECTION IV  
Transport  
CHAPTER XVIII  
HIGHWAYS, STREETS, AND BRIDGES

I. HIGHWAYS

1. THE KING'S HIGHWAY is a perpetual right of passage in the sovereign, for himself and his subjects, over another's land. The oldest existing highways are the Roman Watling Street which runs from Dover to London and from London to Chester, and the Fosse Way which runs from Somerset to Lincoln. "Way Wardens" duties were performed by the Overseers in the reign of Queen Elizabeth.

The first statute which organized the maintenance of roads, was passed in 1555, and created the office of Surveyor of Highways and established the obligation on the part of the occupying inhabitants to contribute labour and materials to carry out the work. The Turnpike Trusts followed.

2. THE HIGHWAY ACT, 1835, was virtually the Act which developed the system of maintenance by each parish, and empowered it to levy a rate. The Act also sanctioned the appointment of a surveyor, who might be a salaried official, for each parish. Experience proved that the unit of the parish was too small, and the Public Health Act, 1848, made the new Local Boards of Health, as the urban sanitary authority, the Surveyor of Highways.

THE LOCAL GOVERNMENT ACT, 1894, abolished the Highway Districts and Highway Parishes, merging them into Rural Sanitary Districts.

THE LOCAL GOVERNMENT ACT, 1929, Part III, provided that from 1st April, 1930, all roads in Rural Districts and all classified roads in Urban districts should become a county responsibility. All county roads (other than roads "claimed" by an Urban Authority) vest in the County Council.

The position in County Boroughs and Metropolitan Boroughs was not changed by the Act, except with regard to Grants.

3. CLASSIFICATION OF ROADS has been completed by the Ministry of Transport as follows—

*Trunk Roads* under the Trunk Roads Act, 1936. (See page 139.)

Class I roads, the main roads or great arteries along which the main traffic flows.

Class II roads, the most important of the other thoroughfares. These are designated A and B.

Unclassified.—Other roads not in Class I or Class II, i.e. all roads and streets of minor importance.

A COUNTY ROAD is either—

(1) A road which has ceased since 31st December, 1870, to be a turnpike road ; or

(2) A road so declared prior to 1889 by the Justices and thereafter by the County Council.

(3) Under the Local Government Act, 1929, Part III—

(a) All rural roads.

(b) All classified roads in urban areas which are not claimed by the urban authority.

*County Roads* are now maintained by the County Councils under the Local Government Act, 1888, and the Local Government Act, 1929, Part III. The Acts entitle

(i) urban authorities with a population of over 20,000 to claim to maintain the county roads (Act, 1929, Sec. 32 (2) (b) );

(ii) any urban and rural district councils which applied before 28th June, 1929, to the county council to maintain the county roads and to be reimbursed the cost thereof by the county councils;

(iii) subsequent applications for this purpose may only be made every five years unless the Minister consents to the application at some other date.

#### 4. MAKING OF NEW ROADS. Highways may be created—

(a) by statute, e.g. by a particular enactment or under an Enclosure Act;

(b) by dedication by the owner to the public;

(c) by "right of way," arising from general use of the road by the public over a long period.

The making of new roads and the widening of existing roads may be undertaken as follows—

(1) *The Ministry of Transport*, under the Development and Road Improvement Fund Act, 1909, incorporated in the Ministry of Transport Act, 1919, and the Trunk Roads Act, 1936. Power is given to acquire land not only for the road itself but also up to 220 yards on each side of the middle of the road.

(2) *County and County Borough Councils*, under the Locomotives and Highways Act, 1878, and the Local Government Act, 1888, may make new roads and widen and improve existing roads. For this purpose they have powers of compulsory purchase and may obtain grants from the Minister of Transport.

(3) *Urban Sanitary Authorities*—

(a) Under the Public Health Acts, may purchase any premises for the purpose of widening any street or making a new street.

(b) The Minister of Transport may assist the council, as in the case of County Councils.

(c) The County Council may also contribute.

(d) The authorities themselves may agree to maintain roads when constructed, and by two-thirds majority of the Council may agree to contribute towards the cost.

(e) Two Justices of the Peace may order an Urban Authority to widen a road to thirty feet.

(4) *Rural District Councils* may apply to the County Council for delegation to them of the County Council's functions in relation to roads in their district. (Local Government Act, 1929.)

(5) By *Housing Authorities* (including Rural District Councils) as owners.

(6) By *Planning Authorities* under the Schemes.

## II. STREETS

1. **UNCLASSIFIED ROADS** are all roads which have not been included in Class I or Class II, but which have been adopted and are, therefore, maintainable by the inhabitants at large. They are administered by the County, Borough, or Urban District Councils. By the Local Government Act, 1929, the Rural District Council is no longer the authority for such roads.

2. A **PRIVATE ROAD** or "Occupation Road" is a road which is not a public highway, but made for private purposes, over which certain persons have a right of passage by reason of their occupation of certain lands.

A **STREET** (from *strata*, "a paved way") generally means a road which has houses built more or less continuously on one or both sides of it.

3. **MAKING OF NEW STREETS.** Apart from the private developer, the county and urban authorities are primarily responsible for the making of new streets.

The Public Health Act, 1925, required urban authorities within six months after 8th September, 1925, to prepare a list of the streets within their areas which were repairable by the inhabitants at large.

4. A **PRIVATE STREET** may be defined as any highway (not being a turnpike road), and any public bridge (not being a county bridge), and any road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not, which is not a highway repairable by the inhabitants at large.

5. **REPAIR AND MAINTENANCE OF STREETS.** At common law

the liability falls upon the inhabitants unless some other person or body is charged with the liability to repair.

6. ADOPTION OF PRIVATE STREETS. An urban authority may require a street which is not repairable by the inhabitants at large to be made up to their satisfaction at the expense of the frontagers or others by taking action either

(a) under the Public Health Act, 1875, Sec. 150; or under that Act as amended by the Public Health Acts Amendment Act, 1890, or

(b) under the Private Street Works Act, 1892.

The powers under the Public Health Act may be extended by the Minister of Health to a rural district subject to the provisions of the Local Government Act, 1929, under which the county council will exercise the powers conferred.

Action is usually taken under (b).

7. THE PRIVATE STREET WORKS ACT, 1892, facilitates the method of adoption of private streets.

(1) The Act is adoptive by an urban sanitary authority or County Council by resolution passed at a meeting after one calendar month's notice has been given to every member of the authority.

(2) The Local Government Act, 1929, provides that the powers previously exercised by rural district councils shall be exercised by County Councils, who must consult the district council when the work involves the construction of sewers.

(3) Where any street or part of a street is not sewered, levelled, paved, metalled, flagged, channelled, made good, and lighted to the satisfaction of the local authority, the authority may resolve to undertake the work, and the expenses incurred shall be apportioned on the premises fronting, adjoining, or abutting on such street or part of a street.

(4) For this purpose the surveyor shall prepare—

(a) A specification of the works referred to in the resolution.

(b) An estimate of the probable expenses of the work.

(c) A provisional apportionment of the estimated expenses.

In such apportionment the authority may, if they think just, have regard to the greater or less degree of benefit and the amount of any work already done.

(5) Objections, which must be in writing and on statutory grounds only, are determined by Justices, who may quash or amend.

(6) When the works have been completed and the expenses thereof ascertained, the local authority shall make a final apportionment, and any premises included shall remain charged with the sum, together with interest at the rate of 5 per cent per annum, or such other rate as the Minister may fix by Order—4 per cent as from 1st April, 1934.

(7) The street, when made up, can be adopted by the local authority, who thereupon become liable for its maintenance.

(8) Although the local authority may apportion expenses according to the degree of benefit, there is no legal authority to relieve the frontagers of any part of the total burden. (*Allen v. Hornchurch U.D.C.*, [1938] 1 K.B.)

8. WIDENING AND IMPROVEMENT OF STREETS is carried out under the Public Health Act, 1875, Sec. 154, and the Public Health Act, 1925, Sec. 83, including power to apply street by-laws to roads already taken over.

9. IMPROVEMENT LINES for widening streets may be prescribed by local authorities under Sections 33 and 34 of the Public Health Act, 1925 ; and power to prescribe building lines is given in Section 5 of the Roads Improvement Act, 1925.

10. DIVERSION AND STOPPING-UP OF HIGHWAYS may be carried out under the Highways Act, 1835, Secs. 84-92.

11. FOOTPATHS by the side of the road were seldom seen prior to the nineteenth century. By the Local Government Act, 1894, the District Councils were made liable for the maintenance of footpaths as well as highways. By the Local Government Act, 1929, the County Council are responsible in rural districts. Under the Act of 1894 the Parish Council were empowered to maintain any footpath not being by the side of a public road.

### III. BRIDGES

1. BRIDGES. The making of bridges was not made part of the common duty of any public authority until 1888, when it was entrusted to the County Council. Prior to this date, however, the law required their maintenance and repair by the owner or highway authority.

2. THE BRIDGES ACT, 1929, enables highway authorities and the owners of bridges carrying public carriage roads to make agreements with respect to the maintenance, improvement, reconstruction and transfer of such bridges and of the approaches thereto and the roads carried thereby.

### IV. GENERAL

1. FINANCE. The expenses in connection with the construction and maintenance of highways, streets, and bridges are part of the public health charges of the respective local authorities.

Grants may be provided by the Ministry of Transport towards

(1) Construction and major improvements;

(2) Maintenance of classified roads under the county council;

(3) Maintenance of unclassified roads under county borough and urban district councils.

2. THE ROAD BOARD was established by the Development and Road Improvement Funds Acts, 1909 and 1910, for the purpose of improving the facilities for road traffic in the United

Kingdom and for the administration of the Road Improvement Grant. The Board was merged in the Ministry of Transport by the Ministry of Transport Act, 1919.

Work formerly performed by the Joint Roads Committee relating to public highways was transferred as from 31st March, 1920, to the Roads Department of the Ministry of Transport by the Ministry of Transport Act, 1919.

3. THE LAND CHARGES ACT, 1925, Sec. 15, provides for the registration of "local land charges" being a charge acquired by a local authority under the Public Health Acts, the Metropolis Management Acts, or the Private Street Works Act, 1892, or under any other similar public, general, local or private Act.

4. THE LAW OF PROPERTY (AMENDMENT) ACT, 1926, amends the Land Charges Act, 1925, Sec. 15, by providing that "any sum which is recoverable by a local authority from successive owners or occupiers of the property in respect of which the sum is recoverable shall, whether such sum is expressed to be a charge on the property or not, be deemed to be a charge."

5. STATE CONTROL OF TRUNK ROADS. The Minister of Transport announced in July, 1936, that, to secure more uniform standards to accord with modern requirements on the main through traffic routes, the Government had decided to introduce a Bill to effect the transfer from the County Councils to the Minister of Transport of the full responsibility for the maintenance and improvement of some 4500 miles of the more important roads used largely for through traffic and described as trunk roads. For this purpose the Trunk Roads Act, 1936, was passed. Roads in the metropolitan and county boroughs in England and Wales, or the large burghs of Scotland were not to be affected. The transfer included bridges, and came into operation on the 1st April, 1937.

6. FINANCE ACT, 1936, provided that the revenues previously paid direct to the Road Fund should go to the Exchequer, and that the Road Fund should be financed out of annual grants voted by Parliament.

7. THE STREET PLAYGROUNDS ACT, 1938, authorizes local authorities to make orders closing streets to traffic in order to make them safer for children to play therein.

8. FINAL REPORT OF THE ROYAL COMMISSION ON LOCAL GOVERNMENT, 1929.

*Part I. Functions of Local Authorities.*

- (a) Prescription of Building and Improvement Lines.
- (b) "Give and Take" Frontage Lines.
- (c) Roads forming the Boundaries of a Local Authority Area.
- (d) Procedure for Compulsory Acquisition of Land.

The subject is dealt with more fully in *The Law of Housing and Planning*. Fourth Edition. (Pitman.)

## CHAPTER XIX

### RESTRICTION OF RIBBON DEVELOPMENT

THE RESTRICTION OF RIBBON DEVELOPMENT ACT, 1935, is "An Act to provide for the imposition of restrictions upon development along the frontages of roads, to enable highway authorities to acquire land for the construction or improvement of roads or for preserving amenities or controlling development in the neighbourhood of roads; to extend the powers of local authorities as to the provision of accommodation for the parking of vehicles and as to the prevention of interference with traffic." It is thus intended to be an addition to highway law, and not an addition to the law of town and country planning.

*The Central Authority* is the Minister of Transport. (Sec. 24 (1).)

*The Local Authorities* are the highway authorities, and arrangements are proposed for those cases in which the care and maintenance of roads are delegated to District Councils by County Councils.

*Application to London.* The Minister of Health is empowered by Order—

(a) To confer upon the Common Council of the City of London, the Metropolitan Borough Councils, and (except in the City of London) the London County Council, the powers possessed by provincial authorities in regard to parking places.

An Order has been made conferring the powers on the Common Council and the Metropolitan Borough Councils.

(b) To confer upon the London County Council the powers conferred by Section 17 of the Act relating to the provision of means of entrance and egress. (Sec. 20 (2) and (3).) An Order has been made under this power. The Act does not otherwise extend to the Administrative County of London.

(1) *Power to Adopt Standard Widths for Roads by Highway Authorities.* "Road" means a highway repairable by the inhabitants at large and includes any part of such a highway and any proposed road and any bridge over which such a highway passes or a proposed road is intended to pass. (Sec. 24.)

The standards prescribed by the First Schedule to the Act are 60 ft., 80 ft., 100 ft., 120 ft., 140 ft., and 160 ft.

(a) The standard width for a road is to be fixed by a resolution of the local authority.

(b) If this is approved by the Minister of Transport, the

resolution has to be advertised and notified in accordance with the Second Schedule to the Act, and the notifications are primarily intended for the information of other local authorities.

(c) The following restrictions shall then be in force, viz.—

It shall not be lawful without the consent of the highway authority—

(i) to construct, form or lay out any means of access to or from the road; or

(ii) to erect or make any building or permanent excavation, or to construct, form, or lay out, any works upon land nearer to the middle of the road than a distance equal to one-half of the standard width adopted. (Sec. 1.)

(2) *Restriction of Building Development along Frontages of Certain Roads*, to provide for an amenity building line and to prevent the making of an access or the erection of buildings on the road frontage.

“Building” includes any structure or erection of whatsoever material and in whatsoever manner constructed, and any part of a building. (Sec. 24.)

Section 2 applies automatically without resolution, to classified roads.

(3) *Exemptions for Works in Progress, etc.* Section 3 provides that—

No restrictions in force under the last two sections shall apply to—

(i) the erection or making of any building; or

(ii) permanent excavation; or

(iii) the construction, formation, or laying out, of any means of access on works—

(a) begun before the date on and after which the restrictions were first published; or

(b) carried out in execution of a contract made before that date otherwise than in contemplation of such restrictions; or

(c) carried out in accordance with any permission granted before the date by a planning authority.

(4) *Power to Fence Roads subject to Restrictions* is given to highway authority for the purpose of preventing access to the road except at such places as may be permitted by them. (Sec. 4.)

(5) Local authorities are required to keep a Register of Persons to whom notice of resolutions is to be given. (Sec. 5.)

(6) *Deposit of Plans by the Highway Authority showing Roads subject to Restrictions* in force under the foregoing provision of this Act. (Sec. 6.)

(7) *General Provisions as to Consents* which a highway authority have power to give under Section 1 and Section 2 of this Act are contained in Section 7.

(8) *Provisions as to Applications for Consent and Applications to Develop under Planning Schemes* are provided by Section 8.

(9) *Compensation for Injurious Affection under Sections 1 and 2* is dealt with in Section 9.

Claims would arise and be dealt with over a period of years and this would be more tolerable to local authorities than a mass of simultaneous claims.

(10) *Public Departments* are empowered to make agreements as to restrictions. (Sec. 10.)

(11) *Contraventions.*

(a) If any person

(i) erects or makes any building; or  
 (ii) permanent excavation; or  
 (iii) constructs, forms or lays out any means of access or works in contravention of restrictions in force under Section 1 or Section 2 of this Act he shall—

(a) without prejudice to any other proceedings which may be taken against him;

(b) be guilty of an offence; and  
 (c) shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds; and

(iv) Whether or not any proceedings are taken either in respect of the offence or otherwise, the highway authority may—

(a) demolish the building;  
 (b) fill up the excavation;  
 (c) close up the means of access; or  
 (d) remove the works;

in relation to which the contravention was committed; and

(e) reinstate the land, etc., in the condition in which it was before; and

The expenses incurred by the authority in so doing shall be recovered summarily as a civil debt from the person by whom the contravention was committed.

(b) If the owner or occupier of any land subject to restrictions in force under Sections 1 or 2 has committed or permits a contravention he shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds for every day on which the contravention occurs or continues. (Sec. 11.)

(12) *The Minister* is empowered in certain circumstances to remove restrictions. (Sec. 12.)

(13) *Acquisition of Land* for road purposes and for preserving

amenities and controlling development is provided for in Sections 13 to 15.

(14) *Betterment.* In any ordered scheme of development there should result a substantial element of betterment, and special provision was made in the Act for the off-setting of betterment against claims for compensation. (Secs. 9 (4) (b) and 13.)

(15) *Parking Places and Means of Access.* Section 16 provides that—

(a) The power of a local authority under Section 68 of the Public Health Act, 1925, shall include power to provide and maintain buildings for use as parking places, and underground parking places.

(b) The powers of a local authority under the above section shall include powers to provide entrance to and egress from any parking places.

(c) Also power to let parking places.

(16) *Power to Require the Provision of Means of Entrance and Egress as a Condition of Approval of Building Plans.* Section 17 provides that whenever plans are required to be submitted to a local authority for the erection or alteration of any building to which this section applies the local authority may, as a condition of their approval, require the provision and maintenance of such means of entrance and egress, and such accommodation for the loading or unloading of vehicles, or picking up and setting down of passengers, or the fuelling of vehicles as may be specified by the local authority.

(17) *Exercise of Functions as Respects Roads Maintained by Councils of County Districts.* Section 13 provides that—

(a) Where the functions of maintenance and repair of any road are exercisable under the Local Government Act, 1929, Sec. 32, by the council of a borough or urban district, the functions conferred by this Act on highway authorities shall be exercised by that council and not by the county council.

(b) If an Order is made by the Minister under Section 1 (4) of this Act, it may empower the county council to exercise those powers on behalf of and at the expense of the council of the borough or urban district.

(18) *Expenses.* Section 19 provides that—

(a) The power of the Minister of Transport to make advances under the Development and Road Improvement Funds Act, 1909, Sec. 8, shall include power to make such advances for the purpose of meeting expenditure incurred by reason of the coming into force of that Act shall have effect accordingly.

(b) Any expenses of a council under Section 1 of this Act

shall be deemed to be expenses of an improvement of a road for the purposes of the Local Government Act, 1929, sec. 33.

Road Fund Grants are payable for expenses under Section 1 (Standard Widths) but not Section 2 (Building Restrictions).

(c) Where an Order is made by the Minister under Section 13 of this Act empowering a county council to act on behalf of, and at the expense of, the council of a borough or of an urban district, the Order may apply any of the provisions of Section 63 of the Local Government Act, 1894, with such modifications and adaptations as appear expedient.

(d) The council of any county may contribute towards any expenses incurred by the council of a county district under this Act or under Section 68 of the Public Health Act, 1925, and the council of any county district may contribute towards any expenses incurred by a county council under this Act.

## CHAPTER XX

### TRAFFIC REGULATION

#### INTRODUCTION

THE ROAD ACT, 1920, provides for the making of regulations with respect to (1) the registration of vehicles ; (2) the identification marks or signs to be fixed on vehicles ; (3) the particulars to be supplied ; (4) the registration books to be issued ; (5) the register for the vehicles for which dealers take out general licences. The Act provides for the levying by County Councils and County Borough Councils of duties on mechanically propelled vehicles and other carriages.

The Act has been amended by the Road Traffic Act, 1930, the Road and Rail Traffic Act, 1933, and the Road Traffic Act, 1934.

#### THE ROAD TRAFFIC ACT, 1930

The Road Traffic Act, 1930, is divided into six Parts, 123 Sections, and five Schedules. The six Parts are as follows—

Part I. Regulation of Motor Vehicles.

Part II. Provision against Third Party Risks arising out of the use of Motor Vehicles.

Part III. Amendment of Law relating to Highways.

Part IV. Regulation of Public Service Vehicles.

Part V. Running of Public Service Vehicles by Local Authorities.

Part VI. General.

The five Schedules are as follows—

First. Limits of Speed.

Second. Provision as to Applications and Inquiries under Section 46.

Third. Traffic Areas—

Part I. Traffic Areas in England.

Part II. Traffic Areas in Scotland.

Fourth. Provisions as to the Determination and Payment of Compensation to Officers.

Fifth. Enactments Repealed.

#### PART I

##### REGULATION OF MOTOR VEHICLES

CLASSIFICATION OF MOTOR VEHICLES. Motor vehicles are classified by Sec. 2 under various headings. The maximum weight of vehicles in the motor class (i.e. light motor-cars as

distinguished from heavy motor-cars) is raised to  $2\frac{1}{2}$  tons. The maximum weight is fixed at 3 tons in the case of private passenger-carrying motor-cars.

LICENSING OF DRIVERS is provided for in Sec. 4, etc. The licensing authority is the County or County Borough Council. The age at which a person may obtain a licence to drive a motor-cycle is raised from 14 to 16. No change is made in the age at which a person may drive an ordinary motor-car, i.e. it remains at 17, but it is provided that no one under the age of 21 may drive a heavy motor-car, motor-tractor, or motor-locomotive.

Sec. 5 of the Act provides that every applicant for the grant or renewal of a driving licence shall make a declaration whether or not he is suffering from any disease or physical disability which would be likely to cause the driving of a motor vehicle by him to be a source of danger to the public. There are severe penalties for a false declaration. Certain disabilities, e.g. extremely bad sight or liability to fits of an incapacitating nature, would be an absolute bar. An applicant who is refused a driving licence may demand a practical test in driving, on payment of a fee of 10s.

Finally, there is an appeal to a court of summary jurisdiction against refusal of a driving licence.

RATE OF SPEED. Sub-sec. (6) of Sec. 10 declares it to be an offence for an employer to give instructions to a driver employed by him which, if carried out, would require the driver to exceed the speed limit for a heavy vehicle, such as a lorry or motor-coach. (See 1934 Act, pages 146-150.)

RECKLESS OR DANGEROUS DRIVING. In the case of the serious offence of dangerous driving, heavy maximum penalties are fixed by Sec. 11. On a second or subsequent conviction the driver is to be disqualified from driving for a period, unless the court for special reasons decides otherwise. Provision is made by Sec. 12 for penalties in respect of careless driving. Sec. 13 prohibits motor racing and speed trials on highways. It is unlawful for any person to drive a motor vehicle on to or upon any common land, moorland, or other land of whatsoever description (not being land forming part of a road) or on any road being a bridleway or footpath, and penalties are provided by Sec. 14. It is, however, declared that nothing in the section prejudices the operation of Sec. 193 of the Law of Property Act, 1925, which relates to the rights of the public over commons and waste lands. Sec. 15 provides for the punishment of persons driving motor vehicles when under the influence of drink or drugs.

By Sec. 16, pillion riders must sit astride and on a proper seat securely fixed to the cycle behind the driver's seat.

Sec. 19 makes provision relative to the number of consecutive hours of rest which a driver is to have in any specified period,

and is amended by Sec. 31 of the Road and Rail Traffic Act, 1933.

ACCIDENTS. Sec. 22 provides that if in any case, owing to the presence of a motor vehicle on the road, an accident occurs whereby damage or injury is caused to any person, vehicle, or animal (including any horse, cattle, ass, mule, sheep, pig, goat, or dog), the driver of the motor vehicle shall stop and, if required so to do by any person having reasonable grounds for so requiring, give his name and address, and also the name and address of the owner and the identification marks of the vehicle.

General powers are given to the Minister of Transport by Sec. 23 to inquire into accidents to, or caused by, motor vehicles on a road.

*The Road and Rail Traffic Act, 1933*, Sec. 17, provides that the Minister shall appoint examiners for the purpose of securing, in the case of goods vehicles, their maintenance in a fit and serviceable condition and the observance of the provisions of the Road Traffic Act, 1930. This includes all powers with respect to the weighing of vehicles under Sec. 27 of that Act. (Sec. 18 (4).)

## PART II

### PROVISION AGAINST THIRD PARTY RISKS ARISING OUT OF THE USE OF MOTOR VEHICLES

(1) A driver or owner of a motor vehicle on a road is subject to severe maximum penalties if failing to satisfy himself that, whenever a motor vehicle is used on a road, he is covered by a policy of insurance or such a security in respect of third party risks as complies with the requirements of the Act against any legal claims that may be made against him by third parties in respect of personal injury.

(2) Invalid carriages, vehicles owned by local authorities or a police authority, and Crown vehicles are excepted.

(3) The insurance company or underwriters must give a client a certificate of insurance in the prescribed form and containing such particulars as may be prescribed.

(4) The legal liability of the owner or driver of a vehicle has not been changed. It is impracticable to secure that compensation will be available in all cases where legal liability would rest on the driver or owner.

(5) Under prescribed conditions, hospitals are entitled to claim the cost of treatment of motor accident cases from insurers. The maximum amount, originally fixed at £25, has been increased to £50 by the Road and Rail Traffic Act, 1933, Sec. 33, and extended to out-patient treatment up to £5.

EMERGENCY MEDICAL ASSISTANCE. The first doctor to treat

a person injured in a motor accident is entitled to a fee of 12s. 6d. in respect of each person treated, and 6d. per mile travelling expenses for any journey over 2 miles, from the user of the vehicle causing the injuries. If treatment is first effected in a hospital, the authorities of the institution are entitled to the fee.

### PART III

#### AMENDMENT OF LAW RELATING TO HIGHWAYS

*Highway Code.* The Minister has issued the Highway Code under Section 45. The Code contains no penalty for failure to comply with the directions, but provides that any such failure may be relied upon by any party to proceedings as tending to establish or negative any liability in question.

The powers of making Orders restricting the use of vehicles on specified roads which, under Sec. 46 of the Road Traffic Act, 1930, are exercisable by the Minister on the application of a council to which that section applies, shall be exercisable by any such council without previous reference to the Minister in accordance with Sec. 29 (4) of the Road and Rail Traffic Act, 1933.

#### ADVANCES FROM THE ROAD FUND.

1. It is declared by Sec. 57 that in relation to any roads for the maintenance of which he is responsible, the Minister of Transport is a highway authority for the purpose of Part II of the Development and Road Improvement Funds Act, 1909, and, accordingly, advances out of the Road Fund may be made to the Minister in his capacity of highway authority.

2. The expression "improvement of roads" in the said Part II shall include the work specified in Sec. 55 of this Act.

3. Advances may be made out of the Road Fund towards the expenses incurred by any highway authority in the erection of weigh-bridges or other machines for weighing vehicles.

4. Advances may be made out of the Road Fund towards any expenses incurred by a police authority in the provision and maintenance of vehicles or equipment for use by the force in connection with the enforcement of the Act.

### PART IV

#### REGULATION OF PUBLIC SERVICE VEHICLES

Part IV of the Act is concerned entirely with the regulation of motor buses and coaches.

#### TRAFFIC AREAS AND TRAFFIC COMMISSIONERS

The establishment of traffic areas in place of the old licensing areas was the most important innovation in the Act. Some such reform of the licensing system had been urgently required.

Great Britain is divided into traffic areas, each under the control of three Commissioners, who issue all licences and regulate all routes and services. The Chairman, a whole-time official, is appointed for seven years by the Minister. The Road and Rail Traffic Act, 1933, Sec. 28, enables the Minister to appoint a person to act as deputy to the Chairman. The other two Commissioners (part-time men) are selected by the Minister from panels prepared by the County Council and the Urban Authorities in the particular area. Their term is for three years. (Sec. 63.)

Sec. 72 makes provision for the granting by the Commissioners of the Road Service Licences. If the Commissioners refuse to issue a licence, an appeal may be made to the Minister.

Before a Road Service Licence is granted, the Commissioners are to hear other persons affected by such licence. For example, the Railway Companies automatically opposed grants of licences for regular routes.

A certifying officer appointed under Sec. 69 of the Road Traffic Act, 1930, shall have the powers of an examiner appointed under Secs. 17 and 18 of the Road and Rail Traffic Act, 1933.

Power is given to the Commissioners by Sec. 74 of the Act to revoke or suspend licences for non-compliance with conditions. Returns are to be made by persons operating public service vehicles, and licence holders are to supply particulars of arrangements with other persons as to the provision of passenger transport facilities.

Numerous Regulations have been issued by the Minister of Transport under statutory powers dealing with various matters such as the issue of licences and certificates and the conduct of drivers, conductors and passengers.

Sec. 93 provides for reference to the Industrial Court of matters which relate to wages and conditions of employment. Sec. 32 of the Road and Rail Traffic Act, 1933, provides that the Court, in arriving at its decision, shall have regard to any determination which may be brought to its notice relating to wages and conditions of service of persons employed in a similar capacity.

## PART V

### RUNNING OF PUBLIC SERVICE VEHICLES BY LOCAL AUTHORITIES

Part V gives a local authority who, under any local Act or Order, are operating a tramway, light railway, trolley vehicle, or omnibus undertaking, powers to run public service vehicles on any road within their district, and also, with the consent of the Traffic Commissioners for the traffic area in which any road

is situated, on that road without having to obtain a special Act or Order. Sec. 101 further provides that—

Nothing in this Act shall authorize a local authority to run any public service vehicle:

- (a) As a contract carriage; or
- (b) On any road on which they are for the time being prohibited by any local Act or Order from running omnibuses; or
- (c) Except with the consent of the authority, on any road vested in a statutory dock authority as such or in a statutory harbour authority as such; or
- (d) Except with the consent of the company, on any premises (not being part of a highway) belonging to a railway company and adjoining or giving access to a railway station.

The Act allows local authorities—the Council of any County Borough or County District, or a Joint Committee or Board of such bodies—which already operate a tramway, light railway, trolley vehicle, or omnibus undertaking, to run public service vehicles beyond their district, with the consent of the Minister.

## PART VI

### GENERAL

This part of the Act makes provision as to regulations which must be laid before both Houses of Parliament as soon as may be after they are made; forgery, etc., of licences and certificates; prosecutions and penalties for offences; inquiries by Ministers (as amended by Sec. 47 of the Road and Rail Traffic Act, 1933); expenses of Roads Department; compensation for existing officers; application of fines and fees under Part I. Special provisions are made as to Scotland. The Act does not extend to Northern Ireland.

**TRANSPORT ADVISORY COUNCIL.** For the purpose of giving advice and assistance to the Minister of Transport in connection with the discharge by him of his functions in relation to means and facilities for transport, there is constituted a Transport Advisory Council in accordance with Sec. 46 and the Second Schedule to the Road and Rail Traffic Act, 1933.

## ROAD TRAFFIC ACT, 1934

This Act amends the Road Traffic, 1930, and the Road and Rail Traffic Act, 1933.

The Act is divided into five parts. Part I: The regulation of motor vehicles, including the provisions for speed limits. Part II: Amendments as to insurance against third-party risks. Part III amends the law as to highways. Part IV contains provision as to public service vehicles and licences for drivers of heavy goods

vehicles. Part V contains the general provisions, including some amendments of the Road Traffic Act, 1930.

## PART I

**SPEED LIMITS.** Sec. 1 provides for the general speed limit of 30 miles per hour in built-up areas to 31st December, 1939, unless otherwise decided by Parliament.

A built-up area is a length of road in which a system of street lighting is maintained by lamps not more than two hundred yards apart. But (a) such a length may, by a direction under Sec. 1, be deemed not to be a built-up area; and (b) a length of road which does not come within the definition may by a direction under Sec. 1 be deemed to be a built-up area.

Such a direction may be given outside the London Traffic Area by the local authority, after consultation with the chief officer of police, and with the consent of the Minister of Transport. Orders making these declarations may be revoked in the same manner in which they are made.

“Local Authority” means (1) the Common Council of the City of London: (2) the council of a county borough, a police borough and a non-county borough or urban district with a population at the last census of 20,000; and (3) elsewhere the county council. In the London Traffic Area, however, the direction will be given by the Minister after consultation with the London and Home Counties Traffic Advisory Committee. The Minister may increase or reduce the speed limit by Order approved by Parliament.

The Minister has a control over local authorities in the exercise of this power. For not only must a direction receive his consent, but also he has power to give a direction where the local authority has failed to do so. But he must give notice of his intention, and if, within the specified period, the authority makes a representation, the Minister must hold a local inquiry.

Where a direction is given, either by the local authority or by the Minister, the local authority must cause the prescribed traffic signs indicating the effect of the direction to be placed on or near the length of road affected thereby.

On the 4th January, 1935, the Minister issued directions as to the type and erection of signs under this Section of the Act.

In default of the local authorities, the Minister may provide these signs and recover the cost from the local authority. “Prescribed,” in this or other provisions, means prescribed by regulations under Sec. 111 of the Road Traffic Act, 1930. For by Sec. 42 of this Act, the Act, when enacted, must be read with the Act of 1930, and so the definition Sec. 121 applies to this Act.

THE SPECIAL SPEED LIMITS prescribed by Sec. 10 of the Act of 1930 are modified by Sec. 2 and the First Schedule to the Act.

This does not affect local authorities except as owners of such vehicles. Under Sec. 3, these limits do not apply to any vehicle when it is being used for fire brigade, ambulance, or police purposes, if likely to hinder the use of the vehicle for the purpose for which it is being used.

**PENALTIES.** The maximum penalty for exceeding any prescribed speed limit is £20 for the first offence and £50 for subsequent offences. The maximum term of imprisonment for reckless and dangerous driving is increased from six months to two years. For exceeding speed limits or careless driving a person may be disqualified for holding or obtaining a licence for not exceeding one month for the first offence. The Minister fixed by Order the 18th March, 1935, as the date for the operation of the Act with regard to speed limits.

**DRIVING TESTS.** A driving licence must not be granted to any person who had not held one before the 1st April, 1934, unless he has passed a prescribed test of competency to drive, except a provisional licence to enable him to pass such a test. A driver convicted of careless or reckless or dangerous driving may be disqualified for holding or obtaining a licence (except a provisional licence) until he has passed a driving test. A petty sessional court may order the return of a driving test fee if satisfied that the test was not properly conducted.

**CONSTRUCTION REGULATIONS.** It is an offence to sell or alter a vehicle which contravenes the regulations as to construction.

## PART II

### THIRD PARTY RISKS

(1) Where a judgment has been obtained against an insured person the insurer cannot avoid payments under the policy. Any payment in excess of what the insurer would otherwise have paid may be recovered from the insured person. Certain exceptions from these provisions are made, e.g. where there has been non-disclosure of a material fact or false representation.

(2) Bankruptcy and similar disabilities will no longer affect the liability of an insured person in respect of third party claims.

(3) Payments of claims by insurers can no longer be avoided by certain restrictions in the policy as to the age or physical or mental condition of a driver. The insurers are entitled to recover any payments made under these provisions from the insured.

(4) It is an offence to refuse information as to insurance against statutory liability without reasonable cause.

(5) It is also an offence not to surrender a certificate of insurance within seven days of the cancellation of a policy of insurance.

### PART III HIGHWAYS

**FOOT PASSENGER CROSSINGS.** When required by the Minister, the councils of counties, boroughs, and urban districts must submit schemes for the establishment of crossings. The Chief of Police must be consulted. The Minister may approve the scheme with or without modifications. In default of the local authority, the Minister may carry out the necessary work and charge the cost on the local authority. The Minister is empowered to issue regulations. Penalties must be specified for breach of the regulations, not exceeding £5.

**ABANDONED CARS.** The police may recover from the owner the cost of removing the vehicle from the highway.

**ROAD ILLUMINATION.** If the lighting authority fail to provide an adequate service, the county council may make the necessary provisions and charge the expenses as for general county purposes. A lighting authority providing an adequate service in any financial year may recover from the county council the amount raised in the area in respect of these expenses. Any question shall be determined by the Minister.

### PART IV PUBLIC SERVICE VEHICLES

(1) Duly endorsed road service licences will not require "backing" by the traffic commissioners of a "Corridor area," i.e. an area in which passengers will not be taken up or set down or the vehicle halted for more than 15 minutes.

(2) Reasonable charges may be made by local authorities for the use of parking places, except in streets.

(3) Local Act provisions with respect to dealing with property accidentally left in public service vehicles are repealed. (See the Lost Property Regulations, 1933, issued by the Minister.)

(4) Special licences issued by the Traffic Commissioners of any traffic area must be held by drivers of heavy goods vehicles.

(5) The Minister fixed by Order the 1st April, 1935, for the operation of the Act with regard to the licensing of heavy goods vehicles.

### PART V GENERAL

COMPENSATION OF OFFICERS under Sec. 116 of the Act of 1930 shall only be payable in relation to loss suffered under Sec. 105 (loss arising out of a working agreement) or Sec. 122 so far as that

section repeals enactments and provisions relating to the licensing of public service vehicles by local authorities.

**ROAD FUND ADVANCES.** Grants to local authorities include (1) maintenance and operation expenses of weighing machines, (2) erecting, maintaining, altering, or removing traffic signs.

#### NEW ASPECTS

1. **THE ROAD TRAFFIC (DRIVING LICENCES) ACT, 1936,** exempts steersmen of motor vehicles subject to speed limit of 5 miles per hour when acting under licensed driver. Non-licensed drivers may be employed in connexion with heavy goods vehicles. Provisional (3 months) licences facilitate learning with a view to passing the test. Licences may be limited to specific classes of vehicles under Regulations made by the Minister.

2. **THE ROAD HAULAGE WAGES ACT, 1938,** provides for the regulation of the wages of workers employed in connexion with goods vehicles for which A, B, or C licences are required.

## SECTION V

### Education and Moral Improvement

#### CHAPTER XXI

##### EDUCATION

1. **DEFINITION.** Education is that function which will develop the faculties of the individual in such a way that he will not only be able to fulfil his allotted task in life as an ordinary tradesman or professional man, but will also become best fitted to serve the community in which he dwells, and to render that service which shall enable him to leave the world better than he found it. Education enables, or should enable, the individual, as an individual, to realize his highest potentialities.

2. **HISTORY OF EDUCATION.** For about 1,100 years the Church was responsible for education. Prior to the Renaissance there were three types of schools which developed in this country, viz. monastic, grammar, and guild schools. These were followed by the public schools.

The invention of printing in the fifteenth century and the Reformation had considerable influence in regard to the encouragement of learning. It was not until after the Reformation had made itself fully felt that the need of primary education for the poor was recognized.

The Church was naturally anxious to retain its hold on the mass of the nation, and by the Canons of 1604 secured the control of education. During the Stuart Period there was a steady reaction, and intellectually this was probably the darkest period in English history.

In 1699 commenced a new era with the formation of the Society for Promoting Christian Knowledge, including among its objects the education of the poor at home. John Wesley (1703-91) and George Whitefield (1717-70) awakened the moral conscience of the country from the lethargy into which it had fallen during the previous century.

In 1769 Hannah Ball started a Sunday School at High Wycombe, which was probably the first in the country, being followed in 1775 by James Hay, who opened a school at Little Lever, in Lancashire, and in 1780 Robert Raikes opened his first Sunday School in Gloucester. The elder Sir Robert Peel secured the passing of a Bill in 1802, which restricted children's labour in factories, and

required that reading, writing, and arithmetic should be taught to them during a part of each day.

The most notable effort made to further popular education was the introduction of the monitorial system, towards the close of the eighteenth century, the origin of which was claimed by Andrew Bell and Joseph Lancaster. In 1808 the Nonconformist followers of Lancaster founded the Royal Lancastrian Society, later the British and Foreign Schools Society. In 1811 the National Society for the Education of Children of the Poor according to the Principles of the Church of England (commonly referred to as the National Society) was formed, and took over the schools established by Andrew Bell.

In 1807 Mr. Whitbread, the Whig leader, introduced a Bill for the establishment of parochial schools through the agency of local vestries, who were to be empowered to levy a rate for the purpose. The Bill passed the House of Commons but was rejected by the House of Lords. In 1828 Thomas Arnold went to Rugby, and created a new public school spirit, immortalized by Thomas Hughes in *Tom Brown's School Days*.

State support came first in the form of a Minute, dated 30th August, 1833, of the Lords Commissioners of the Treasury, based on a financial resolution of the House of Commons dated 17th August, 1833, making a grant of £20,000 towards funds for the erection of school houses, not including residences of teachers.

In 1839 the grant, which had become annual, was increased to £30,000. The Education Department was constituted by an Order in Council, whereby a Special Committee of the Privy Council was established to administer the grant. At the same time inspectors of schools were appointed.

The Treasury Minutes continued until 1856, when an Act of Parliament established the office of Vice-President of the Committee of Privy Council on Education, with the result that the administration of grants came under the control of a Minister responsible to Parliament.

The period from 1856 to 1870 was one of considerable political activity. No legislation was passed during that time, but by a Minute dated 29th July, 1861, the Right Hon. Robert Lowe, at that time Vice-President of the Committee, published a Revised Code of all the Minutes issued by the Education Department which had been codified for the first time in the preceding year. From this time the Code has been issued as amended every year, and no alteration involving expenditure adopted until submitted to Parliament.

3. THE ELEMENTARY EDUCATION ACT, 1870, provided for Commissioners to inquire into the condition of education in

School Districts. These districts were created by adopting the borough boundaries for towns and the civil parish boundaries for the county. Where there existed a deficiency, School Boards were to be elected in towns by the burgesses and elsewhere by the ratepayers.

THE SCHOOL ATTENDANCE COMMITTEE ACT, 1876, provided for the establishment of Committees wherever a School Board did not exist, and the machinery was completed in 1880 by the Compulsory By-Laws Act, which required all educational authorities to pass compulsory by-laws relative to school attendance. In 1891 the Abolition of Fees Act provided for an additional grant of 10s. for all free school accommodation. In 1897 the Voluntary Schools Act gave an additional grant of 5s. in respect of the scholars in attendance at Voluntary Schools, while at the same time these schools were exempted from local rates.

4. THE BOARD OF EDUCATION ACT, 1899, reconstituted the central authority. The same year Thomas Barclay Cockerton, the District Auditor of the Local Government Board, surcharged the London School Board in respect of certain expenditure for higher education, which he declared to be illegal. His ruling was upheld by the Queen's Bench Division of the High Court of Justice and the Court of Appeal.

In 1900 the system of payment of grants by results was abolished. An Act of 1901 to meet the Cockerton judgment, which affected other places besides London, paved the way for the legislation which followed.

5. THE EDUCATION ACT, 1902, had for its objects—

- (1) The abolition of the *ad hoc* local authority, viz. the School Boards;
- (2) The transfer of their powers to the local education authority;
- (3) The support of voluntary schools from the local rates in addition to the Government grants;
- (4) The recognition of the responsibility of the local education authority to provide for public secondary education.

LEGISLATION 1902 TO 1918.

The following Acts were subsequently passed, viz.—

Education (Provision of Meals) Acts, 1906 and 1914.

Education (Administrative Provisions) Act, 1907: Medical Inspection. Borrowing from Public Works Loan Commissioners.

Local Education Authority (Medical Treatment) Act, 1909.

Education (Choice of Employment) Act, 1910.

Education (Administrative Provisions) No. 2 Act, 1911.

Elementary Education (Defective and Epileptic Children) Act, 1914.

6. THE EDUCATION ACT, 1918. An Education Bill was

introduced in the House of Commons by the Right Hon. H. A. L. Fisher, 10th August, 1917. Certain administrative proposals were strongly opposed and the Bill was withdrawn. It was introduced again on the 14th January, 1918, with important amendments, the outcome of negotiations with Local Authorities. It died with the early close of the Parliamentary session. The third Bill was the outcome of negotiations for the adjustment of difficulties. It was introduced on the 25th February, 1918, and received the Royal Assent, 10th August, 1918. The Act—

- (1) Raised the school age to 14 years.
- (2) Further restricted the employment of school children.
- (3) Authorized nursery schools for children under five.
- (4) Drastically altered the system upon which Grants for education were paid, by the introduction of a formula basis.
- (5) Provided for the introduction, at a later date, of day continuation schools.

#### EDUCATION ACT, 1921

THE SYSTEM OF EDUCATION in England and Wales is now regulated by the Education Act, 1921 (as amended), which is an Act to consolidate the law relating to Education and certain enactments relating to the employment of children and young persons.

OBJECTS. The ~~undesirable~~ purpose of the Act is "the progressive development and comprehensive organization of education" available for all persons capable of profiting thereby. Until the passing of the Act our educational system had merely supplemented voluntary effort. The Act is intended to establish a system of national education.

THE EDUCATION ACT, 1921, is a consolidating measure containing the unrepealed sections of the Education Acts, 1870 to 1919. It contains 173 sections and 7 schedules. There are nine parts—

- Part I. Central and Local Education Authorities.
- Part II. Schemes as to Powers and Duties.
- Part III. Elementary Schools.
- Part IV. School Attendance.
- Part V. Blind, Deaf, Defective and Epileptic Children.
- Part VI. Higher Education.
- Part VII. Provision for Health and Well-being of Scholars.
- Part VIII. Employment of Children and Young Persons.
- Part IX. General.

The Board of Education issued a circular to local authorities, stating that an Order had been made providing the 1st October, 1922, as the "appointed day" (a) for all the purposes of the Education Act, 1921, except sections 76, 77, and 93 (which relate, to continuation schools), and (b) for those sections, as respects those areas and classes of persons to which section 10 of the Education Act,

1918 (which related to continuation schools), at that time applied.

#### DEFINITIONS—

(1) *Elementary Education* is the education of children up to sixteen or seventeen, within the limits of the Code issued by the Board of Education.

(2) *Higher Education* is that other than elementary, viz.—

(a) Technical Education includes instruction in the arts and sciences underlying some trade or profession.

(b) Commercial Education includes instruction in the art of disposing of the products of industry to the best advantage.

(c) Secondary Education includes that class of education which lies between the elementary schools and the universities, whether self-contained or leading to higher teaching.

(d) Day Continuation Schools are provided in accordance with the Education Act, 1921.

(e) University Education includes training at a university or university college.

(f) Unemployment Centres (Unemployment Act, 1935).

#### PART I. CENTRAL AND LOCAL EDUCATION AUTHORITIES

1. THE BOARD OF EDUCATION is continued as the Department of Government charged with the superintendence of matters relating to education in England and Wales.

2. THE CONSULTATIVE COMMITTEE is continued for advising the Board of Education on any matters referred to the Committee by the Board. It is constituted in accordance with Order in Council dated 22nd July, 1920, under Section 4 of the Board of Education Act, 1899.

3. LOCAL EDUCATION AUTHORITY was established by the Education Act, 1902.

There are two classes—

(1) Local Education Authority for elementary education—  
The Council of every

(a) County Borough;

(b) Borough with a population of over 10,000 at 1901 census.

(c) Urban District with a population of over 20,000 in 1901.

(d) County (excluding any such borough or urban district).

The Education (Local Authorities) Act, 1931, provides that no council of an urban district (whether a borough or not) which was not at the commencement of the Act a local education authority shall become such unless expressly constituted as such by an Act passed after the commencement of the Act.

(2) Local Education Authority for higher education. The Council of a County and the Council of a County Borough.

4. EDUCATION COMMITTEES of a Council are constituted in accordance with a scheme approved by Board of Education, providing for—

(1) Majority of members to be councillors unless, in the case of a county, the council otherwise determine.

(2) Co-option by the council, on the nomination or recommendation of other bodies, of persons of experience in education.

(3) The inclusion of women among the members.

(4) The Council may delegate to the Education Committee, with or without restrictions, any powers except the power of raising a rate or borrowing money.

5. POWER TO RELINQUISH POWERS AND DUTIES. The Council of a non-county borough or urban district may by agreement with the council of the county and with the approval of the Board of Education relinquish in favour of the County Council any of their powers and duties under the Act.

6. PROVISIONS AS TO CO-OPERATION AND COMBINATION. Powers are given to the local education authorities to combine voluntarily, to form Joint Committees, or Body of Managers, or Federations for carrying out work of common interest. A scheme for any such combination shall provide for the appointment of at least two-thirds of the members by councils and may provide either directly or by co-optation for the inclusion of teachers or other persons of experience in education.

7. INSPECTION OF MINUTES is now provided for under the Local Government Act, 1933. (See page 8.)

## PART II. SCHEMES AS TO POWERS AND DUTIES

1. IT IS THE DUTY OF THE COUNCIL OF EVERY COUNTY AND COUNTY BOROUGH to submit schemes to the Board of Education showing the mode in which their duties and powers under the Education Acts and under the Blind Persons Act, 1920, are to be performed and exercised whether separately or in co-operation with other authorities.

2. SCHEMES AS TO ELEMENTARY EDUCATION may be submitted to the Board of Education by the local education authority for elementary education and shall be submitted when required by the Board of Education.

3. SCHEMES FOR CONTINUATION SCHOOLS may be submitted by the local education authority for higher education, and shall be submitted when required by the Board of Education.

4. SCHEMES are to be submitted only after consultation with other local education authorities in the case of a county council. The local education authority concerned shall consider any representations made to them by parents or other persons or

bodies of persons interested. Provision shall be made in order to secure that children and young persons shall not be debarred from receiving the benefits of any form of education by which they may be capable of profiting through inability to pay fees.

5. SCHEMES RELATING TO MEDICAL INSPECTION AND TREATMENT of children and young persons shall be submitted under similar conditions to the foregoing but to the Minister of Health.

### PART III. ELEMENTARY SCHOOLS

#### 1. MAINTENANCE AND PROVISION OF SCHOOLS.

(a) The local education authority for elementary education—

(i) shall maintain and keep efficient all public elementary schools within their area; it is their duty to provide such additional accommodation necessary to meet the requirements of the Board of Education;

(ii) may, with the consent of the Board of Education, provide a public elementary school outside their area for the use of children within their area;

(iii) is required to adapt the teaching in the higher classes of public elementary schools to the requirements of older children; to organize in public elementary schools advanced instruction for the older and more intelligent children, and to arrange for the transfer of children to central schools when desirable;

(iv) may supply or aid the supply of Nursery Schools for children over two and under five years of age, and attend to the health, nourishment, and physical welfare of the children attending such schools;

(v) may provide vacation schools, vacation classes, and play centres or other means of recreation for scholars during their holidays or at such other times as the local education authority may prescribe;

(vi) may make such arrangements, of either a permanent or temporary character, as will insure the provision of board and lodging for children of any age up to receive the full benefit of education by means of the ordinary provision made for the purpose by the authority;

(vii) may aid by scholarships or bursaries the instruction in public elementary schools of scholars from the age of twelve up to the age fixed as the limit for such instruction and may provide allowance for maintenance in connection with any scholarships awarded;

(viii) may maintain as a public elementary school any Marine School or any school which is part of, or is held in, the premises of any institution in which children are boarded.

(ix) may provide recreational facilities for persons of all ages under the Physical Training Act, 1937.

(b) The Board of Education may, on the application of the local education authority, authorize it to raise the age of compulsory attendance at elementary schools to sixteen years, such age to be deemed to be attained at the end of the school term and to admit children only at the commencement of a school term. Local education authorities should consider this power in view of the unemployment among young people.

## 2. CONDUCT OF SCHOOL.

(1) *Public Elementary School* means a school or department of a school at which elementary education is the principal part of the education there given. In connection with these schools—

(a) A child shall not be required to attend or abstain from attending any place of religious worship.

(b) The time or times for religious observance shall be either at the beginning or at the end of any meeting of the school.

(c) The school shall be open at all times to the inspection of any of His Majesty's Inspectors.

(d) The school shall be conducted in accordance with the conditions required to be fulfilled by an elementary school in order to obtain an annual parliamentary grant.

(2) There are two classes of Elementary Schools, viz. : Provided (popularly known as Council) and Non-Provided (popularly known as Voluntary).

(3) *Provided Schools* shall be conducted under the control and management of the local education authority, and no religious catechism, or religious formulary which is distinctive of any particular denomination, shall be taught in the school.

### (4) *Non-provided Schools.*

(a) The local education authority shall be responsible for and have control of all secular instruction.

(b) The local education authority shall maintain and keep efficient such school only so long as the school is necessary and the conditions and provisions of the Act are complied with, including—

(i) The admission to such schools of teachers of secular subjects appointed by the local education authority not attached to the staff of any particular school.

(ii) The admission of teachers appointed for the purpose of giving practical instruction.

(c) The managers of such school and the local education authority shall respectively be liable to make good any damage caused to furniture or rooms out of school hours.

(d) The local education authority have power to require pupils of non-provided schools to attend as may be directed any class in other institutions for the purpose of practical or special instruction or demonstration.

(e) The local education authority may close a school of less than thirty scholars.

(f) In order to extend the power of closing schools to any uneconomic unit, if satisfied that a school is unnecessary and that sufficient provision for scholars is available in any other school, the local authority may close a school even though it may have thirty scholars. (Education (Necessity of Schools) Act, 1933.) The Board of Education settles any disputes.

### 3. SCHOOL MANAGERS.

(1) *Appointment of Managers* as follows—

(a) *Provided Schools*—

(i) Where County Council is local education authority—four by the County Council, two by the minor local authority.

(ii) Where borough council or urban district council is the local education authority—such number by the Council as it may determine.

(b) *Non-Provided Schools*—

Not exceeding four foundation managers appointed according to the trust deed, together with—

(i) Where the County Council is local education authority—one by the County Council, one by the minor local authority.

(ii) Where the Borough or Urban District Council is the local education authority, two appointed by the Council.

(iii) The total number of managers may be increased provided the above proportions are maintained.

Minor local authority means the Council of any borough, urban district, or parish, or the parish meeting of the area served by the school.

(2) *Grouping of Schools*. The local education authority may, if they consider it expedient for the purposes of educational efficiency and economy, distribute the children attending two or more non-provided schools according to age, sex, or attainments and otherwise with respect to the organization of the schools.

(3) *Powers of Managers*. The managers of a public elementary school—

(a) Provided by the local education authority, shall deal with such matters as the local education authority determine.

(b) Not provided by the local education authority, shall be the managers of the school, both for the purposes of the Act and for the purposes of the trust deed.

(4) *Management and Grouping of Provided Schools in London*.

(a) The number of managers and the grouping of schools shall be determined by the council of each metropolitan borough after consultation with the local education authority and subject to the approval of the Board of Education.

(b) Two-thirds shall be appointed by the borough council and one-third by the local education authority.

(c) A manager shall be appointed for not longer than three years, but may be re-appointed.

#### 4. PROHIBITION OF SCHOOL FEES.

No fees shall be charged or other charges of any kind made in any public elementary school, but this does not affect the provisions relating to payments by parents with respect to the provision of meals or the medical treatment of school children, or by parents of blind, deaf, defective, and epileptic children.

The Education Act, 1918, retained fees in secondary schools and abolished them in elementary schools, and provided for free education in day continuation schools at some future date. In other words, it applied the principle that where education was compulsory it was to be given without charge to the parents, but, where the parent had an option whether or not to send his child to a particular type of school, he should be required to pay fees, wholly or in part.

#### 5. TRANSFERS AND CLOSING OF SCHOOLS.

(1) *Power to Transfer School to Local Education Authority* is given to the managers of an elementary school, and the authority may assent to the arrangement.

(2) *Re-transfer of Schools* may be made to a body of managers qualified to hold the same under the trusts of the school as they existed before the transfer.

(3) *Provision as to Closing of School.* The managers of a non-provided public elementary school shall give eighteen months' notice to the local education authority of their intention to close the school, and a notice under this provision shall not be withdrawn except with the consent of the authority.

#### 6. ENDOWMENTS OF NON-PROVIDED SCHOOLS.

Nothing in the Act affects any endowment or the discretion of any trustees in respect thereof.

### PART IV. SCHOOL ATTENDANCE

#### 1. DUTY OF PARENT AND LOCAL AUTHORITY.

(1) *It is the duty of the parent* of every child between the ages of 5 and 14, or if a by-law so provides, between the ages of 6 and 15, to cause that child to receive efficient elementary instruction in reading, writing, and arithmetic.

As from 1st September, 1939, the upper limit is extended to 15 years in all areas.

(2) *It is the duty of the local education authority to take proceedings for enforcing the duty of the parent.*

(3) *A School Attendance Order may be made by a court of summary jurisdiction where complaint is made by a local education authority.*

(4) *Proceedings on Disobedience* to order of court for attendance at school—

(a) In the first case of non-compliance with the order :

(i) If the parent of the child does not appear ; or

(ii) Appears and fails to satisfy the court that he has used all reasonable efforts to enforce compliance with the order, the court may impose a fine not exceeding, with the costs, twenty shillings.

(iii) If the parent satisfies the court, the court may order the child to be sent to an approved school.

(b) In the second or any subsequent case of non-compliance with the order, the court may :

(i) Order the child to be sent to—

(a) an approved school ; or

(b) under an Interim Order, to a remand home or other place of safety, or to a place where there are facilities for medical or psychological examinations to be made ; and

(ii) In their discretion inflict any such fine as aforesaid ; or

(iii) Inflict a fine without ordering the child to be sent to an approved school.

## 2. BY-LAWS.

(1) *It shall be the duty of the local education authority to make and enforce by-laws for their area respecting the attendance of children at school.*

(2) *By-laws shall require the parents of children between the age of 5 and the age of 14 to cause those children to attend school.* As from the appointed day, viz. 1st September, 1939, the leaving age will be 15, except in the case of children born on or before 1st September, 1925. (Education Act, 1936, Sec. 1.)

(3) *Exemption may be granted from obligation to attend school between the ages of 14 and 15 for such time and upon such conditions as the authority think fit.* (*Ibid.*, Sec. 2.)

*By-laws* may provide that parents shall not be required to cause their children to attend school or to receive instruction before the age of six years.

(4) *Permission* may also be given by the local education authority to the parents of a child who has attained the age of 14 years to withdraw that child from school for the purpose of enabling the

child to give assistance in the home if by reason of circumstances there existing exceptional hardship would otherwise be caused. (*Ibid.*, Sec. 5.)

(5) *By-laws shall not require* a child to attend school on any day exclusively set apart for religious observance by the religious body to which his parents belong.

(6) By-laws shall not apply to any child who has attained the age of 14 and in respect of whom an Employment Certificate has been granted within the meaning of the Education Act, 1936.

(7) *Power is given to the Board of Education* in case of default of any local education authority either to exercise the powers of enforcing the duties of the authority or themselves to make by-laws respecting the attendance of children at school.

### 3. APPLICATION TO CHILDREN IN CANAL BOATS.

(1) A child in a registered canal boat and his parents shall be deemed to be resident in the place to which the boat is registered as belonging.

(2) If the parent satisfies the local education authority that the child is actually receiving efficient instruction in the area of another authority, the first named authority shall grant a certificate to that effect. Such certificate may be rescinded or varied.

(3) The Board of Education have power to make regulations with respect to the form of certificates or pass-books as to attendance at school, to be used by children in canal boats.

## PART V. BLIND, DEAF, DEFECTIVE, AND EPILEPTIC CHILDREN

### 1. EDUCATION OF BLIND AND DEAF CHILDREN.

(1) *Duty of parent of blind or deaf child* to cause the child to receive instruction suitable to such child.

(2) *Duty of local education authority* for elementary education to enable blind and deaf children resident in their area to obtain efficient and suitable education in some school certified by the Board of Education.

(3) The Education (Deaf Children) Act, 1937, reduced from 7 to 5 years, the age of entry for deaf children.

### 2. EDUCATION OF DEFECTIVE AND EPILEPTIC CHILDREN.

(1) Duties of local education authority for Elementary Education include making suitable provision, either alone or in conjunction with other local education authority, for the education of children belonging to their area whose age exceeds seven years and who are ascertained to be mentally defective within the meaning of the Elementary Education (Defective and Epileptic Children) Act, 1899.

(2) Local education authority required to consult parents of children, and co-operate as far as possible with other authorities.

(3) Council of urban district or non-county borough may, by agreement, delegate its powers to the County Council.

(4) Local education authority may obtain an order, from a court of summary jurisdiction, requiring the child to be sent to a special school.

(5) On child's discharge as no longer defective, certificate of defect to be returned.

(6) *Mental Deficiency Act*, 1913, provides that the duties of the local education authority shall include a duty to make arrangements, subject to the approval of the Board of Education—

(a) For ascertaining—

(i) Which children over the age of seven within their area are mentally defective.

(ii) Which of such children are incapable, by reason of mental defect, of receiving benefit or further benefit from instruction in special schools or classes provided under the Education Act, 1921.

(b) For notifying to the local authority under the Act the names and addresses of defective children, who on or before attaining the age of sixteen are about to be withdrawn from a special school or class and concerning whom the local education authority are of opinion that it would be to their benefit that they should be sent to an institution or placed under guardianship.

(7) *Duty of local education authority to provide for the Education of Defective and Epileptic Children*. If they cannot do this by means of day schools, they are not to be obliged to provide for the board and lodging of the children for seven years.

### 3. GENERAL PROVISIONS AS TO EDUCATION OF BLIND, DEAF, DEFECTIVE, AND EPILEPTIC CHILDREN.

(1) *The period of compulsory education* for these children extends to the age of 16 years, and may be enforced as under Part IV of the Act, except deaf children as explained above.

(2) *Parent of the child* is liable to contribute such weekly sum as may be agreed on, or, failing agreement, as may be settled by a court of summary jurisdiction.

## PART VI. HIGHER EDUCATION

### 1. GENERAL POWERS.

(1) *The Local Education Authority* for higher education (see page 159) shall consider the educational needs of their area and take such steps as seem to them desirable, after consultation with

the Board of Education, to supply or aid the supply of higher education, and to promote the general co-ordination of all forms of education.

(2) *The Council of any non-county borough or urban district* may supply or aid the supply of education other than elementary, to the limit of a rate of 1½d. in the £. Provision is now made for schemes of co-operation between County Councils and other authorities within their area.

(3) The power of a local education authority to supply or aid the supply of higher education includes the power to—

(a) Train teachers.

(b) Make provision for the purpose outside their area.

(c) Provide or assist in providing scholarships (including allowances for maintenance) for, and to pay or assist in paying the fees of, students at schools, colleges or hostels within or without that area.

(4) *Schools or Institutions* for science and art may be transferred to a council having powers under this Act.

(5) *Power to Aid Research.* A local education authority for higher education may aid teachers and students to carry on an investigation for the advancement of learning or research in, or in connection with, an educational institution, and with that object may aid educational institutions.

## 2. CONTINUATION SCHOOLS.

Section 10 of the Education Act, 1918, was the heart of that Act. The appointed day was to have been in the Autumn, 1921, but has been postponed indefinitely. Its provisions are outlined below.

From the appointed day it shall be the duty of the local education authority for higher education either separately or in co-operation with other local education authorities—

(1) To provide PART-TIME CONTINUATION SCHOOLS for young persons up to the age of eighteen, free of fees. Provided that—

(a) The obligation shall not, within a period of seven years from the appointed day, apply to young persons between the ages of sixteen and eighteen, nor after that period to any young person who has attained the age of sixteen before the expiration of that period, and

(b) During the like period, if the local education authority so resolve, the number of hours in each year shall be two hundred and eighty instead of three hundred and twenty.

EXEMPTION from obligation to attend continuation schools is provided for any young person—

(a) Who is above the age of fourteen on the appointed day, or  
 (b) Who has satisfactorily completed a course of training

for, and is engaged in the sea service in accordance with any national scheme;

(c) Who is above the age of sixteen and either

(i) Has passed the matriculation examination of a university of the United Kingdom or an examination equivalent thereto; or

(ii) Is shown to the satisfaction of the local education authority to have been up to the age of sixteen under suitable and efficient full-time instruction.

THE OBLIGATION TO ATTEND continuation schools shall not apply to any young person who is shown to the satisfaction of the local education authority to be under suitable and efficient

(a) Full-time instruction in some other manner;

(b) Part-time instruction in some other manner for a number of hours equal to those required at a continuation school;

(c) Where a British University or the Central Welsh Board reports to the Board of Education that a secondary school makes satisfactory provision for the education of the scholars, such a school shall for the purposes of this section be treated as recognized by the Board of Education as efficient.

ATTENDANCE shall not be required on a Sunday or during a holiday or half-holiday, nor between the hours of seven in the evening and eight in the morning, except in the case of young persons employed at night or otherwise at abnormal times.

THE UNEMPLOYMENT ACT, 1935, provides that the local education authority shall, as soon as may be after the commencement of the Act, submit to the Minister of Labour proposals for the provision of such courses of instruction as may be necessary for persons in their area between the minimum age of entry into insurance and the age of eighteen years who are capable of and available for work, but have no work or only part-time or intermittent work. The Minister may refund 75 per cent of the cost of providing these courses.

## PART VII. PROVISIONS FOR HEALTH AND WELL-BEING OF SCHOLARS

### 1. MEDICAL INSPECTION AND TREATMENT.

(1) It is the duty of the local education authority for elementary education to make such arrangements as may be sanctioned by the Minister of Health for attendance to the health and physical condition of scholars in public elementary schools; and to provide for the medical inspection of children. According to present arrangements inspection must take place during the first

school year, during the year after a child's twelfth birthday, and at some intermediate period.

(2) A local education authority for higher education is empowered to provide medical inspection and treatment in—

(a) Secondary schools provided by them.

(b) Schools under the Welsh Intermediate Education Act, 1899.

(c) Continuation schools under their direction and control.

(d) Such other educational institutions and schools provided by them as the Minister of Health may direct.

(e) To extend such provisions to any school or educational institution, whether aided by them or not, if so requested by or on behalf of the management thereof.

(3) Local Education Authorities are to avail themselves of the services of private medical practitioners for the medical treatment of children and young persons but shall not establish a general domiciliary service of treatment.

(4) Local education authority is empowered to recover from parents, summarily as a civil debt, the cost of medical treatment of their children.

(5) A parent is not obliged to submit his child to medical inspection or treatment; but such refusal might be regarded as a serious default in any prosecution for wilfully neglecting a child's health.

## 2. PROVISION OF MEALS.

(1) The local education authority for elementary education may take steps for the provision of meals for children attending their public elementary schools, and for that purpose may—

(a) Associate themselves with a School Canteen Committee.

(b) Provide that Committee, without statutory limit as to expenditure, with land, buildings, furniture, apparatus, and such officers and servants as may be necessary for organization, preparation and service of such meals. Local education authority cannot purchase food save as hereinafter provided.

(2) Where local education authority resolve that children cannot take advantage of education by lack of food, and ascertain that there is inadequate voluntary provision, they may spend out of the rates such sums as may be necessary to meet the cost of the provision of food. The powers of the local education authority shall be exercisable in respect of children attending a public elementary school within their area, both on days when the school meets and on other days.

(3) Cost of meals is recoverable from parent summarily as a civil debt unless satisfied parent is unable to pay.

(4) No teacher is to be required as part of his duties to supervise or assist in the provision of meals.

### 3. MISCELLANEOUS POWERS.

(1) *Power to promote social and physical training* by a local education authority for elementary education making arrangements to supply or maintain or aid the supply or maintenance of—

(a) Holiday or school camps.

(b) Centres and equipment for physical training, playing fields, school baths, and school swimming baths.

(c) Other facilities for social and physical training for children and young persons, and persons over the age of 18 attending education institutions in the day or evening.

(2) *Cleansing of verminous children* under order of local education authority for elementary education.

(3) *Provision of conveyances and guides* by local education authority for elementary education, where necessary, for teaching children or other scholars, including payment of travelling expenses.

(4) *Powers of local education authority for elementary education* include a power to prosecute any person under Part I of the Children and Young Persons Act, 1933 (relating to Cruelty), where the person against whom the offence was committed was a child, and to pay any expenses incidental to the prosecution.

(5) *Power to act as fit person and in boarding out of children.* (See next chapter.)

## PART VIII. EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

These provisions are modified by the provisions of Part II of the Children and Young Persons Act, 1933, and the Young Persons (Employment) Act, 1938. (See next chapter.)

## PART IX. GENERAL

### 1. ACQUISITION, APPROPRIATION, AND ALIENATION OF LAND.

(1) *A local education authority* may, for the purposes of their powers and duties under this Act—

(a) Purchase land by agreement by incorporation with this Act of the Lands Clauses Acts.

(b) Purchase land compulsorily for the purpose of any of their powers or duties under the Education Acts by means of an order confirmed by the Board of Education in accordance with the Fifth Schedule to the Act of 1921 incorporating with the necessary adaptations the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act, 1919, and the Railways Clauses Consolidation Act, 1845.

(2) *Appropriation of Land.*

(a) Land acquired for specific purposes may be otherwise utilized—

(i) With the consent of the Board of Education, land if acquired for elementary education, may be utilized for higher education, and *vice versa*

(ii) With the consent of, and after inquiry by, the Minister of Health, land, if acquired otherwise than for education, may be utilized for education.

(iii) With the consent of the Board of Education, land acquired for education purposes may be appropriated to other purposes approved by the Minister of Health.

(3) *Alienation of Land.* The provisions of the Charitable Trusts Acts, 1853 to 1894, which relate to the sale, leasing, and exchange of lands belonging to any charity shall apply to a local education authority.

## 2. EXPENSES OF LOCAL AUTHORITIES.

Rating—no statutory limit; but for higher education, non-county borough and urban district councils are limited to a rate of one and one-third pence in the £.

(a) Expenses of County Council—

(i) Paid out of the County Fund unless otherwise provided for.

(ii) It is no longer obligatory to charge on or raise within particular areas any portion of educational expenses and before doing so the Council of borough or urban district concerned shall be consulted.

(b) Expenses of Borough and Urban District—Paid out of the General Rate Fund.

(c) Public Assistance Authorities may contribute towards the expenditure in respect of defective or epileptic children sent by the authorities.

(3) *Audit of Accounts.* These accounts are made up yearly to 31st March, and are subject to audit by the District Auditor of the Minister of Health.

(4) *Loans* are subject to the approval of the Minister of Health. They are repayable over a period not exceeding sixty years.

## 3. PROVISIONS AS TO INSPECTION.

(1) *Inspection and Examination* in respect of religious subjects in non-provided schools may be arranged by the managers on not more than two days in any one year.

(2) *Inspection of any School.* The Board of Education may,

free of cost, inspect and report upon any school or educational institution if requested by the governing body or head master.

#### 4. PROVISIONS AS TO AGE.

(1) *Certificates of Birth* for any purposes of elementary education or employment may be obtained on payment of sixpence.

(2) *Registrars of Births and Deaths* are required to transmit a return of children as specified by the local education authorities.

(3) *Age* for admittance or leaving school may be prescribed as being attained at the commencement or end of a school term.

5. LEGAL PROCEEDINGS. Legal proceedings for non-attendance or irregular attendance require the approval of not less than two members of the Education Committee.

6. OFFICERS. A local education authority may appoint necessary officers, including teachers, to hold office during the pleasure of the authority, and may assign to them such salaries as they think fit, and may remove any such officers.

7. ENFORCEMENT OF DUTIES. If the local education authority fail in their duties, the Board of Education may hold a public inquiry and make such order as they may think necessary, which may be enforced by *mandamus*.

#### 8. RETURNS, INQUIRIES, REPORTS, AND NOTICES.

(1) *Returns* shall be made by the local education authority and by the managers of public elementary schools.

(2) *Public Inquiries* may be held by the Board of Education for the purpose of any of their powers and duties.

(3) *Annual Report* shall be laid before both Houses of Parliament by the Board of Education.

(4) *Notices* may be served upon and authenticated by the clerk to the local education authority.

#### 9. MISCELLANEOUS.

(1) *Gifts* may be accepted by a local education authority and an authority shall have power to accept any real or personal property given to them as an educational endowment or upon trust for any purposes connected with education.

(2) *Exemption of School Buildings from Building By-laws* made by any public health authority, is provided where plans are approved by Board of Education.

(3) *Exemption from Rates* is granted for non-provided schools, except to the extent of any profit derived by the managers of the school from the letting thereof.

(4) *Validity of Undertakings* made by any person intending to

become a teacher is provided for, notwithstanding that he was an infant at the time the undertaking was given.

(5) *Registration Council* is constituted by the Privy Council, to which is assigned the duty of forming and keeping a register of teachers who—

(a) Satisfy the conditions of registration established by the Council.

(b) Apply to be registered.

### Education Act, 1936

(1) From 1st September, 1939, the school-leaving age raised to 15.

(2) Exemptions from additional year if—

(i) child secures beneficial employment; or  
(ii) if hardship would otherwise be caused.

(3) Exemption revocable if further education neglected.

(4) Local education authorities were authorized to make grants not less than one-half or more than three-quarters of costs of managers of non-provided schools in building, enlarging or improving schools for this purpose.

(5) Local authority to have power of appointing and controlling teachers in schools receiving these grants, except for religious subjects ("reserved" teachers).

(6) Local authorities responsible for compensation to teachers retired for this purpose.

### Adult Education

1. THE FINAL REPORT OF THE ADULT EDUCATION COMMITTEE of the Ministry of Reconstruction, 1918, contains the following proposals in reference to local authorities—

(1) Non-vocational adult education should be regarded as an integral part of the activities of local education authorities.

(2) Each local education authority in Great Britain should be required to submit to the Central Department a separate scheme or schemes dealing with this.

(3) General establishment of non-vocational institutes as evening centres for humane studies, co-operating with voluntary agencies and seeking to establish new traditions.

(4) Co-operation with voluntary organizations in the formation of local colleges foreshadowed by the proposed Revised Regulations of the Board of Education.

(5) Local authorities to give substantial assistance to university historical classes, courses of extension lectures and to salaries and expenses of resident tutors. Scholarship schemes to include scholarships to summer schools and maintenance grants

to adults to reside in a university or college for a shorter or longer period. Local authorities to contribute annually the proceeds of a penny rate to their provincial university.

(6) Local authorities to combine to establish an Adult Education Joint Committee. This Committee should be required to co-opt representatives of universities and of bodies engaged in organizing non-vocational classes aided out of public funds. The Joint Committee would receive applications for the provision of adult classes and would form a panel of suitable lecturers from which teachers could be chosen for the classes provided.

(7) The University Grants Committee drew attention in 1936 to the failure of the local authorities of the areas neighbouring the area in which there is a University to make adequate contributions towards its revenues.

2. AN ADULT EDUCATION COMMITTEE was constituted by the President of the Board of Education in April, 1921—

(1) To promote the development of liberal education for adults and in particular to bring together national organizations concerned with the provision of adult education ;

(2) To further the establishment of local voluntary organizations for the purpose of, and of arrangements for, co-operation with local education authorities, and

(3) To advise the Board of Education upon any matters which the Board may refer to the Committee.

The Committee have issued various Reports.

#### Education and Industry

There exists a demand for the linking together of education and industry.

(a) In 1926 Committee appointed by the President of the Board of Education and the Minister of Labour under the chairmanship of Mr. Dougal Malcolm. Issued First Report in 1927 and Second Report in 1928.

(b) REPORTS OF COMMITTEE ON EDUCATION presided over by Sir W. H. Hadow, C.B.E.

The First Report on the *Education of the Adolescent*, issued in 1928, recommended that elementary and secondary education should be regarded as "successive phases in a continuous process, through which all normal children should pass." In order to realize this idea, the Committee recommend that elementary education should cease at 11, and that it should be followed by some form of secondary school, which should be classified as follows—

(1) Schools of the "Secondary" type most common to-day to be known as Grammar Schools.

(2) Schools of the type of existing Selective Central Schools which give at least four years' course from the age of 11 and with a practical trend, to be known as Modern Schools.

(3) Schools of the type of Non-selective Central Schools on the same general lines as in (2) to be also known as Modern Schools.

(4) Departments or classes within Public Elementary Schools providing post-primary education for children who do not go to any of the above-mentioned types of schools to be known as "Senior Classes."

The Committee recommended that the school-leaving age should be raised to 15 in five years' time. In 1929 the Government announced that this would operate as from April, 1931, but legislation was postponed until the Education Act, 1936.

The Second Report on *The Primary School* was published in 1931, and many of the recommendations are being put into force by local education authorities.

The Third Report on *Infant and Nursery Schools* was issued in December, 1933. Their conclusion is that the Nursery School is a desirable adjunct to the national system of education.

(c) THE LORD EMMOTT COMMITTEE was composed of representatives of all the important professional and teaching bodies in the country, including the Federation of British Industries and the General Federation of Trade Unions.

(d) The Sub-Committee on Education appointed by the Treasury Local Government Committee on Economy in 1931 proposed the restriction of entrants into Training Colleges and the enlargement of classes to meet shortage of teachers.

The Reports of these Committees are fully dealt with in *Social Administration*: Third Edition (Pitman).

### Superannuation

1. THE SCHOOL TEACHERS (SUPERANNUATION) ACT, 1922, provided that for the purpose of the School Teachers (Superannuation) Act, 1918, a contribution of 5 per cent of the amount of their salary shall be made by teachers to whom the principal Act applies by way of contribution towards the cost of providing benefits under the Act.

2. THE SCHOOL TEACHERS (SUPERANNUATION) ACT, 1924, prolonged the period during which contributions were payable to the 1st April, 1926.

3. THE ACT OF 1925 made these contributions permanent.

4. THE TEACHERS (SUPERANNUATION) AMENDMENT ACT, 1928, provides that a teacher may serve up to four years in a school in a foreign country maintained primarily for the education of children of British subjects, without losing his pension rights.

5. THE TEACHERS (SUPERANNUATION) ACT, 1933, increases the maximum period for payment of contributions during intervals of service in the case of a teacher serving in a foreign country from one to four years.

6. THE TEACHERS (SUPERANNUATION) ACT, 1937, permits the allocation of part of a pension to a spouse or dependant for a period not exceeding five years, or such longer period as the Board may direct. It makes further and better provision for the payment of contributions when service is discontinued for periods not exceeding one year when contributors may pay their contribution at a rate of 10 per cent to preserve their pension rights. It extends pension rights under the Act of 1925 to educational organizers.

#### Wireless

The British Broadcasting Corporation has set up—

1. The Council for Broadcast Adult Education. (Chairman, His Grace the Archbishop of York.)
2. The Council for School Broadcasting. (Chairman, The Right Hon. Lord Eustace Percy.)

The Council's organ is *The Listener*, which devotes most of its space to the reproduction of talks.

#### Films

The place of the film in education is receiving attention, principally through the British Film Institute, which has set up a Commission, upon which the principal Government Departments concerned are represented.

A sound film entitled "Work Awaits You," prepared by the Ministry of Labour is being shown at Junior Instruction centres in connection with the Juvenile Transference Scheme.

#### Burnham Salaries Awards

Local Authorities Panels gave notice to terminate the existing scales on 31st March, 1932, but subsequently agreed to continue these subject to the adjustments under the National Economy Act, 1931, which were restored in 1935. Scale I was, however, abolished in 1936.

#### Supervision of Private Schools

The report was issued in June, 1932, of the Departmental Committee set up by Sir Charles Trevelyan, when President of the Board of Education, to inquire into the position of education authorities in relation to schools which are not in receipt of grants from public funds, and to consider what changes are

desirable so as to ensure the adequate education of the pupils under suitable conditions.

The expression "private schools" is used comprehensively to comprise all schools not in receipt of grants from public funds, and applies, therefore, to many of the highest and most exclusive educational institutions in the country as well as to a number of makeshift shams which are still to be found because some parents prefer them to the public elementary schools.

The main conclusions and recommendations are summarized in *Local Government of the United Kingdom* (Pitman).

#### Children's Safety Committees

The Board of Education issued Circular 1449 on the 24th April, 1936, to local education authorities drawing attention to the Report of the Inter-Departmental Committee on Road Safety among school children and directing special attention to the recommendation for the formation of local Children's Safety Committees.

#### Physical Training and Recreation Act, 1937

This Act provides for the formation of National Advisory Councils for Physical Training, one for England and Wales and one for Scotland, empowered to arrange for the setting up of local committees to develop and co-ordinate the work in the localities, the establishment of grants committees to supervise the allocation of the financial assistance which will be made available. Local authorities are given power to provide facilities. The Board of Education are also empowered to provide and maintain a National College of Physical Training for England and Wales.

Most of the Museums and Gymnasiums Act, 1891, and Sec. 69 of the Public Health Act, 1925, are repealed.

#### Reports of Consultative Committee

SECONDARY EDUCATION: Chairman, W. Spens (1938). History of education, including development of the curriculum in different types of schools. Outline of the curriculum of grammar schools, technical high schools, and other technical schools.

## CHAPTER XXII

### CHILDREN AND YOUNG PERSONS ACTS

INTRODUCTION. In order to appreciate the position produced by the passing of the Children and Young Persons Act, 1933, it is important to understand the earlier legislation and the circumstances which have necessitated the amendment of that legislation.

THE CHILDREN ACT, 1908. This Act consolidated some 38 previous statutes. Its provisions have been incorporated with amendments in subsequent legislation.

ADDITIONAL LEGISLATION. The following additional statutes have since been passed—

Children (1908) Act Amendment Act, 1910;  
Children (Employment Abroad) Act, 1913;  
Criminal Justice Administration Act, 1914;  
Criminal Justice Act, 1925;  
Children (Employment Abroad) Act, 1930;  
Children and Young Persons Act, 1932;  
Children and Young Persons Act, 1933;  
Local Government Act, 1933;  
Public Health Act, 1936: Part VII.  
Young Persons (Employment) Act, 1938.  
Children and Young Persons Act, 1938.

#### CHILD LIFE PROTECTION

PART I OF THE ACT OF 1908 was amended by Part V of the 1932 Act. It was left outstanding by the 1933 Act. It was repealed by the Second Schedule to the Public Health Act, 1936, and is now re-enacted in Part VII of that Act. (See Chapter XII.)

THE CHILDREN AND YOUNG PERSONS ACT, 1932 (hereafter referred to as the 1932 Act). The main object of the Act is "to amend the existing law contained in the Children Act, 1908, and other statutes relating to the care and protection of neglected children and young persons and the treatment of young offenders."

The Act also makes some changes in the law regarding infant life protection, the supervision of children and young persons in voluntary homes, and the employment of young persons in street trading. It amends also the Children Act, 1908.

THE CHILDREN AND YOUNG PERSONS ACT, 1933 (hereafter

referred to as the 1933 Act). It was considered undesirable from an administrative point of view to bring the Act of 1932 into force until the law had been consolidated, and so this Act was passed in 1933. Although this is said to be a Consolidating Act, nevertheless certain sections of the previous Acts before enumerated have not been repealed. It is necessary, therefore, to consider the provisions of the previous Acts so far as they remain unrepealed, as well as the provisions of the present Act.

**CENTRAL AUTHORITY.** A division of the Home Office has been constituted to deal with questions relating to children, particularly approved (formerly reformatory and industrial) schools, children's courts, probation officers, cruelty to children, and street trading.

#### LOCAL AUTHORITIES.

"Local Authorities" means—

- (a) As respects children, the local education authorities for elementary education; and
- (b) As respects other persons, councils of counties and county boroughs.

Provided that—

1. Where a person previously ordered to be sent to an approved school or committed to the care of a fit person attains the age of 14, he is not transferred from the control of the elementary education authority to that of the county or county borough council.
2. Where a district council has relinquished its powers to the county council, the county council will be regarded as the elementary education authority.
3. Arrangements may be made (either by agreement or by the Secretary of State on application) for the exercise of functions by the county council.
4. By Sec. 80 the functions will be exercised in the City of London by the Common Council, except the granting of licences for children to take part in entertainments, which are powers and duties of the London County Council in their capacity as local education authority for elementary education.

**COMMITTEES.** A local authority may refer to—

- (1) A committee appointed for the purposes of this Act; or
- (2) any committee appointed for the purposes of any other Act,

any matter relating to the exercise by the authority of any of their powers under this Act.

*Note.*—The Parts which follow relate to the Children and Young Persons Act, 1933, unless otherwise stated.

## PART I

PREVENTION OF CRUELTY AND EXPOSURE TO MORAL AND  
PHYSICAL DANGER

Part II of the 1908 Act has been amended by the Second Schedule of the 1932 Act, and consolidated in the 1933 Act.

(1) *Punishment for—*

- (a) Cruelty to children and young persons under the age of 16 years.
- (b) Suffocation of infants by person who has attained the age of 16 years.
- (c) Other offences in relation to any child or young person under the age of 16 years, including—
  - (i) Causing them to beg.
  - (ii) Exposing children to risk of burning.
  - (iii) Allowing in brothels child who has attained the age of four and is under 16 years.
  - (iv) Causing, encouraging or favouring the seduction or prostitution or carnal knowledge of a girl under the age of sixteen years.

(2) *Power* conferred on constables to take any person into custody who commits an offence under this Part of the Act.

(3) Elaborate provisions respecting Evidence and Procedure are contained in Secs. 27 to 32 of the 1908 Act as amended by the Second Schedule of the 1932 Act, and consolidated in Part I of the 1933 Act.

## PART II

## EMPLOYMENT

The majority of the sections in Part II merely re-enact, with minor modifications, mainly with a view to simplification, the provisions of Part VIII of the Education Act, 1921, regarding the employment of school children.

(1) *By-LAWS* may be made by local authorities regulating—

- (a) The employment of children under Sections 18 and 19.
- (b) Street trading under Section 20.

(2) *RESTRICTIONS* are placed on children taking part in entertainments except as provided by Section 22.

(3) *EDUCATION ACT, 1936*, as from the appointed day, viz. 1st September, 1939, applies Secs. 18 and 22 to all children who are required by the Act to attend school. (Sec. 6.)

(4) *THE DANGEROUS PERFORMANCES ACTS* are re-enacted in Section 23—

Licences cannot be granted by local authorities for child under 16 for any occupation likely to be injurious to his life, limb, health, education, or physical development.

(5) The employment of children in factories, workshops, mines, and quarries is prohibited.

(6) THE EMPLOYMENT OF WOMEN, YOUNG PERSONS, AND CHILDREN ACT, 1920, provided that as from the 1st January, 1921, it should be illegal to employ any child under 14 in any industrial undertaking (as defined in that Act) unless the child was already so employed at that date.

An amending Act operated from the 1st January, 1937. Women and young persons 16 years and over may be employed on a shift system by Order of the Secretary of State. Provision must be made for clothing accommodation, food and transport facilities, and further education.

(7) THE CHILDREN AND YOUNG PERSONS ACT, 1933, Sec. 19, gives power to local authorities to make by-laws with respect to employment of persons under 18. This section cannot come into operation until the draft of an Order of the Secretary of State has been approved by resolution of both Houses of Parliament.

(8) STREET TRADING. The expression "street trading" includes the hawking of newspapers, matches, flowers, and other articles, playing, singing or performing for profit, shoe-blacking, and other like occupations carried on in streets or public places; and a person who assists in a trade or occupation carried on for profit shall be deemed to be employed, notwithstanding that he receives no reward for his labour. (Section 30.)

(a) No person under the age of 16 shall engage or be employed in street trading.

(b) A local authority may make by-laws for regulating or prohibiting street trading by persons under the age of 18 (Sec. 1(7)). By-laws under this part of the Children and Young Persons Act require the confirmation of the Home Secretary.

*The Young Persons (Employment) Act, 1938*, closes the gap between employments which have been regulated and those which have not. Employment of young persons between the ages of 14 and 16 is limited to 48 hours in 1939 and 44 thereafter. Overtime is prohibited in the case of those not over 16, and the Home Secretary may limit others by Regulation. Rest intervals and weekly half-holidays are provided for, and uniformity with those provisions and those contained in the Shops Acts is established.

CHILDREN TAKING PART IN ENTERTAINMENTS, ETC. Restrictions under the 1933 Act are as follows—

(a) Prohibits the employment of any child in any entertainment in connection with which any charge is made to any of the audience. (Sec. 22.)

(b) Provides that a local authority under rules prescribed

by the Board of Education may grant licences for children to take part in entertainments. (Sec. 22 (3).)

(c) Prohibits the employment of any child under the age of 16 years in similar employment, but excludes from the restrictions premises licensed according to law for public entertainment. (Sec. 23.)

(d) Provides that no person under 16 years of age shall take part in any public performance in which his life or limbs are endangered. (Sec. 23.)

(e) Provides that a petty sessional court may grant a licence for a person who has attained the age of 12 years to be trained to take part in performances of a dangerous nature. (Sec. 24.)

(f) Child means a person who is attending a public elementary school and who attains the age of 14 years during a school term. (Sec. 107.) But note Education Act, 1936, *ante*, under which the normal age is increased to 15.

**CHOICE OF EMPLOYMENT.** The powers of a local education authority for higher education include power to make arrangements, subject to the approval of the Board of Education; to give boys and girls under 18 years of age assistance with respect to the choice of suitable employment by means of advice.

### PART III

#### PROTECTION OF CHILDREN AND YOUNG PERSONS IN RELATION TO CRIMINAL AND SUMMARY PROCEEDINGS

1. PRINCIPLES to be observed by all Courts in dealing with Children and Young Persons are laid down in Section 44.

2. JUVENILE COURTS. Juvenile courts are not to be held in a building mainly or exclusively used either as a police station or for the holding of ordinary courts, without the special approval of the Secretary of State.

(a) Outside London: Constituted of members of a panel of justices specially selected for their qualifications for dealing with juvenile cases, and are to be regulated by rules made by the Lord Chancellor. (Sections 45 to 49.)

(b) City of London: Constituted and sit at such place or places as the Court of the Lord Mayor and Aldermen from time to time determine.

3. PROCEDURE IN JUVENILE COURTS. A juvenile court may sit on any day for hearing and determining a charge against a child or young person in respect of an indictable offence.

No person shall be present at any sitting of a juvenile court, except—

(a) Members and officers of the court.

(b) Parties to the case before the court and their solicitors and counsel, witnesses and other persons directly concerned.

(c) *Bona fide* representatives of newspapers or news agencies.

(d) Such other persons as the court may specially authorize to be present.

Juvenile courts will now be able to deal with persons under 17 instead of under 16, and provisions are made with respect to remands and bail.

4. CHILDREN AND YOUNG PERSONS IN NEED OF CARE OR PROTECTION. Children and young persons who require care or protection, or who have committed offences, are dealt with in Sections 61 to 65 in substitution for Part II of the 1932 Act and Part V of the 1908 Act.

“Poor Law authority” is defined as “the council of a county or county borough, or a joint committee established under Sec. 3 of the Poor Law Act, 1930.” (Sec. 107.) No provisions for administration are inserted, and the council must fall back upon its general powers under the Local Government Act, 1933.

5. AUTHORITY OR PERSON TO TAKE ACTION. Under Sec. 58 of the Children Act, 1908, it was the function of the police authority to take steps for the protection of juveniles. The 1933 Act provides—

(a) any local authority;

(b) any constable or authorized persons may bring a child or young person before a juvenile court. (Sec. 62.)

“Authorized person means any officer of a society which is authorized by general or special order of the Secretary of State to institute proceedings under this section, and any person who is himself so authorized.” (Sec. 9.)

(E.g. the Royal Society for the Prevention of Cruelty to Children.)

Refractory children maintained in or boarded out from a school or other institution are dealt with in Sec. 11.

6. PRINCIPLES RESPECTING JUVENILE OFFENCES. Notice of intention to bring a child before a court has to be given to (i) the probation officer, and (ii) the local authority. Under Sec. 20 (1) this will not be necessary where a local or poor law authority proposes to bring him before a court.

The court may either—

(a) Order him to be sent to an approved school; or

(b) Commit him to the care of any fit person, whether a relative or not, who is willing to undertake the care of him; or

(c) Order his parent or guardian to enter into a recognizance to exercise proper care and guardianship; or

(d) Without making any other order, or in addition to making any order under either of the two last preceding paragraphs,

make an order placing him for a specified period, not exceeding three years, under the supervision of a probation officer, or of some other person appointed for the purpose by the court. Power is given—

- (a) by Sec. 10 of the Act to a parent or guardian; and
- (b) by Sec. 11 to a poor law authority,

to bring a child or young person who is refractory before a juvenile court with a view to him being sent to an approved school. (See also Amending Act, 1938, page 186.)

7. **EFFECT OF SUPERVISION ORDER.** Where a court makes an order placing a child or young person under the supervision of a probation officer or of some other person, that officer or person shall, while the order remains in force—

- (a) Visit, advise, and befriend him; and
- (b) When necessary, endeavour to find him suitable employment; and
- (c) May, if it appears to his interests so to do, at any time while the order remains in force, and he is under the age of 17, bring him before a juvenile court; and
- (d) That court may, if they think that it is desirable in his interests so to do, order him to be sent to an approved school or commit him to the care of a fit person, whether a relative or not, who is willing to undertake the care of him. (Sec. 13.)

The main changes are—

(1) That the juvenile court shall have jurisdiction to deal with all cases of neglect up to the age of 17, instead of 14, as formerly;

(2) That an ordinary court by which a person has been convicted of cruelty or any of various sexual offences against a child or young person may direct that the child shall be brought before a juvenile court as needing care or protection; and

(3) That it is the *duty* of the local education authority, instead of the police, to bring neglected children before a juvenile court, unless they are satisfied that proceedings are undesirable in the interest of the child or some of the persons taking the proceedings.

*Places of Safety.* These may be provided and the expense of conveyance thereto is a charge against the Education Account, for those of school age.

**JUVENILE OFFENDERS.** In regard to young offenders, the Act

(a) Abolishes the right of the parent or guardian of a child to elect that the child shall be committed for trial by jury; and

(b) Retains the general power of courts of summary jurisdiction to punish by whipping any male child convicted summarily of any indictable offence (Sec. 60 and Sch. III).

Where a child or young person is tried by a court which is not a juvenile court, there is power to send the case to a juvenile court to decide what method of treatment should be applied.

The provisions of the Children Act, 1908, Sec. 103, etc., are re-enacted as follows in the 1933 Act—

1. A court of summary jurisdiction before whom a child is charged with an indictable offence other than homicide may deal with him summarily. (Sec. 56 (1.))

2. A court of summary jurisdiction before whom a young person is charged with an indictable offence may with his consent and if they consider it expedient so to do, deal with him summarily. (Sec. 56 (1.))

3. Additional powers of any court with respect to a child or young person found guilty of an offence punishable in the case of an adult with imprisonment include power

(a) To order him to be sent to an approved school;

(b) To commit him to the care of a fit person, whether a relative or not, who is willing to undertake to care for him. (Sec. 62.)

4. Any court by or before whom a child or young person is found guilty of an offence other than homicide, may, if they think fit, remit the case to a juvenile court. (Sec. 46.)

5. No child under the age of eight can be legally guilty of an offence. (Sec. 50.)

6. Sentence of death shall not be pronounced against any person under the age of 18 years. (Sec. 63 (1.))

7. Principles are laid down which must be observed by courts in dealing with children and young persons. (Sec. 48.)

8. The words "conviction" and "sentence" shall cease to be used in relation to children and young persons dealt with summarily. (Sec. 59.)

The local authority (for children under 14 the local education authority for elementary education, and for older persons the council of a county or county borough) shall furnish information about the home surroundings, school record, health and character of children, and young persons brought up either as offenders or as needing care or protection.

*The Children and Young Persons Act, 1938*, amends and extends the Act of 1933 and the Education Act, 1921. Juvenile Courts may place refractory juveniles in care of a fit person. In place of an Order placing a child under a fit person, the Probation Officer may be granted supervision of the child for three years or until the age of 18. Truants may be sent to a Remand Home or Place of Safety for a temporary period, during which further inquiries may be made. If facilities for medical treatment are not available in a Remand Home, the child or young person may

be removed to another place for that purpose. Where a parent refuses to bring a child before the Court, another person may be authorized to do so.

PART VI OF THE 1908 ACT AS AMENDED BY THE 1933 ACT—  
MISCELLANEOUS AND GENERAL

(1) *Prohibiting*—

(a) The giving of intoxicating liquors (except for medicinal purposes or urgent cause) to children under the age of 5 years. (Sec. 5.)

(b) Children from being present in court during the trial of other persons. (Sec. 36.)

(c) The taking of pawns from children under 14 years; in London and Liverpool under 16 years of age. (Sec. 8.)

(d) The purchase of old metal from any person apparently under 16 years of age. (Sec. 9.)

(e) Vagrants from preventing children who have attained the age of 5 years receiving education. (Sec. 10.)

(f) Children from being allowed in the bar of licensed premises, except during the hours of closing. (Sec. 6.)

(2) *Providing for*—

(a) The clearing of a court during children's evidence. (Sec. 114.)

(b) Cleansing of verminous children under order of local education authority. (Sec. 122.)

JUVENILE SMOKING.

(1) *Penalty* on selling tobacco or cigarette paper to a person apparently under the age of 16, whether for his own use or not.

(2) *Duty* of a constable or park-keeper in uniform to seize tobacco or cigarette paper in the possession of persons apparently under the age of 16, whom he finds smoking.

(3) *Power* to court of summary jurisdiction to order automatic machine for the sale of tobacco to be removed if extensively used by persons apparently under the age of 16 (Act, 1933, Sec. 7).

Maintenance agreements must be notified to local authorities. Power is given to local authorities to prevent overcrowding; to obtain orders of removal from unsuitable premises or unsuitable persons; and to exempt institutions maintained by local authorities from Part I of the Act of 1908, now Public Health Act, 1936. Secs. 65 to 69 of the Act of 1932 amend Secs. 1 and 4 of the Children Act, 1908.

JUVENILES COMMITTED TO CARE OF A FIT PERSON. Provision is made as to orders committing children and young persons to the care of a fit person. (Sec. 84.)

Power is also given by the Act of 1933 to commit a child or young person to the care of the local authority.

Power is further given to commit any child or young person to the care of the Minister of Pensions under Sec. 9 of the War Pensions Act, 1918.

Consideration shall be had to the religious persuasion of the person to whom the child or young person is committed.

The Act provides that in future children under 10 shall not as a rule be sent to approved schools, and gives the courts power to commit these younger children to the care of the local education authority, who will be responsible for boarding them out with suitable foster parents.

The Home Secretary may cause inspectors to visit such children, and make rules regarding the persons with whom they may be boarded out. The local authority may, however, apply to a juvenile court to have the child sent to an approved school, and receive a Government grant in aid of this expenditure. (Sec. 84 (2).)

An order for sending a child or young person to an approved school made on the application of a poor law authority will state that it is so made. It will also state whether the local or poor law authority is responsible for conveying the child or young person to the school. In the latter case he must be conveyed at the expense of the poor law authority (Sec. 70). The person conveying a person to an approved school will have the powers, protection, and privileges of a constable. (Fourth Schedule, 1933 Act.)

*Provision of Schools.* A local authority may, with the approval of the Secretary of State, undertake, or contribute to, the provision of an approved school. (Sec. 80.)

*Provisions as to Contributions Towards Expenses.* Expenses of maintenance of a child or young person in an approved school may be recovered in accordance with Secs. 86 to 89.

The parents or step-parents of a child or young person sent to an approved school or committed to the care of a person must contribute towards the cost of his maintenance. (Sec. 86.) Further provisions for enforcement are contained in Sec. 32, but do not apply where the approved school order is made on the application of a poor law authority.

Local authorities specified in approved school orders must contribute in accordance with Sec. 90. But this does not apply where the order is made (a) on the application of a poor law authority in its capacity as such; (b) by reason of the commission of an offence under Sec. 105 (c) relating to a child not resident in England.

The sending of the child or young person to an approved school will not affect any order made under Sec. 19 of the Poor Law

Act, 1930, or the power of the poor law authority to obtain one, and for the purpose of the law relating to affiliation orders he will be regarded as still in receipt of relief (Sec. 88 (4)). The poor law authority make such contributions to the managers of the school as the Secretary of State may determine to be reasonable. (Sec. 90 (5).)

A local or poor law authority may institute proceedings for any offence in relation to a child or young person. (Sec. 98 (1).)

Expenses incurred under this Act by the council of a county or county borough as poor law authority are to be regarded as expenses of administering the Poor Law Act, 1930. (See Sec. 96 (4) (a).)

#### PART IV

##### REMAND HOMES, APPROVED SCHOOLS AND PERSONS TO WHOSE CARE CHILDREN AND YOUNG PERSONS MAY BE COMMITTED

###### REMAND HOMES.

Sec. 77 of the 1933 Act supersedes Sec. 108 of the Children Act, 1908, and imposes on the councils of counties and county boroughs the duty of providing remand homes, either within or without the area, and for that purpose they may arrange with the occupiers of any premises for the use thereof.

A child or young person who escapes from a remand home is dealt with in accordance with Sec. 78. This applies also to a child or young person who runs away from persons with whom a child or young person has been boarded out or to whose care he has been committed.

###### APPROVED SCHOOLS.

The 1932 Act repealed Part IV, Reformatory and Industrial Schools, of the 1908 Act; this is re-enacted in Part IV of the 1933 Act.

Sec. 7 and the Fourth Schedule to the 1933 Act provides that, instead of the distinction between reformatory and industrial schools, there shall be one group of schools, known as "approved schools," classified by the Secretary of State.

Period of detention in an approved school normally is three years, but children sent to an approved school before reaching the age of 11 may be detained until they reach school-leaving age. In the case of young persons it will also be three years, but not in any case till beyond the age of 19. The Home Secretary will be empowered to order a further detention for six months for vocational training.

## PART V

## HOMES SUPPORTED BY VOLUNTARY CONTRIBUTIONS

**VOLUNTARY HOMES.** Part V provides for the registration and inspection of voluntary homes. Local authorities are not affected, except that under Sec. 95 the Secretary of State may, with the consent of the council of any county, county borough, or county district, appoint officers of that council to conduct on his behalf inspections of voluntary homes registered under the Act.

## PART VI

## SUPPLEMENTAL

Part VI contains general provisions and various amendments of the Probation of Offenders Act, 1907, and of the Act of 1908.

(1) The provisions of the Summary Jurisdiction Acts shall extend to Rules under this Act. (Sec. 101.)

(2) Appeals to Quarter Sessions from Orders of a Court of Summary Jurisdiction under this Act may be brought in the cases and by the persons specified in Sec. 102.

**FINANCE.** Sec. 96 of the 1933 Act provides—

1. *Exchequer Grants.* There shall be paid out of money provided by Parliament—

(i) Such sums on such conditions as the Secretary of State with the approval of the Treasury may recommend towards—

(a) The expenses of the managers of an approved school.

(b) The expenses of a local authority in respect of children and young persons committed to their care.

(c) The expenses of a council of a county or county borough in respect of children and young persons in remand homes established and maintained by them either alone or jointly with any other council.

(ii) Any sums by which any education grants under any other Act are increased by reason of the additional powers and duties conferred or imposed by this Act upon local authorities for elementary education.

The effect is to provide a grant of 50 per cent towards the expenses of the local authority.

2. *Expenses of Local Authorities.*

(1) Expenses incurred by a local education authority to be expenses under the Education Act, 1921.

(2) Expenses by the council of a county or county borough to be—

(a) In their capacity of poor law authority under the Poor Law Act, 1930; and

(b) in any other case as expenses for general purposes as provided by Part VIII of the Local Government Act, 1933. In a circular dated 15th May, 1935, the Minister of Health requested county borough councils whose accounts are only partly audited by the District Auditor to keep separate accounts in respect of children committed to their care so as to facilitate examination of those accounts.

3. LOANS BY LOCAL AUTHORITIES. Sec. 96 of the 1933 Act provides that a local authority may borrow for the purposes of the Act.

#### OTHER ACTS OF PARLIAMENT AFFECTING CHILDREN

1. THE PROBATION OF OFFENDERS ACT, 1907, enables magistrates and judges in suitable cases, instead of inflicting punishment, to release offenders on probation and place them under the supervision of Probation Officers.

2. THE PREVENTION OF CRIMES ACT, 1908, has for its objects (1) the reformation of young offenders, and (2) the prolongative detention of habitual criminals. The first object is attained by the establishment of Borstal Institutions for young offenders over 16 and under 21 years of age.

3. THE CRIMINAL JUSTICE ACT, 1925, Part I, extends the provisions respecting Probation of Offenders by providing for the appointment of probation officers for every probation area being a petty sessional division and for the appointment of probation committees for every probation area.

4. THE LEGITIMACY ACT, 1926, provides that illegitimate children become legitimate on the marriage of parents, except where one of the parents was married to a third party at the time of the child's birth. Such a person is now allowed to take interest in the estate of a person dying intestate.

5. THE ADOPTION OF CHILDREN ACT, 1926, legalizes the adoption of children by persons over twenty-five in whom are vested all the rights, duties, and liabilities of a lawful parent.

SECTION VI  
Public Assistance  
CHAPTER XXIII  
PUBLIC ASSISTANCE

1. THE NECESSITY FOR THE POOR LAW arose as a result of the abolition of the monasteries by Henry VIII, a series of bad harvests, and a debased coinage. The early Poor Law aimed just as much at suppressing vagabondage as at relieving distress. In making provision for the latter, it endeavoured to remove any excuse for the former.

REFORM OF THE POOR LAWS

(Reforms which have been carried out are indicated by \*)

Until 1st April, 1930, the Poor Laws were administered by Boards of Guardians in accordance with the Poor Law Amendment Act, 1834.

1. ROYAL COMMISSION on the Poor Laws and Relief of Distress was appointed 4th December, 1905, to inquire—

(1) Into the working of the laws relating to the relief of poor persons in the United Kingdom;

(2) Into the various means which have been adopted outside of the Poor Laws for meeting distress arising from want of employment, particularly during periods of severe industrial depression.

There were two reports under date 4th February, 1909, viz.—

(1) Majority Report, signed by 14 members.

(2) Minority Report, signed by 4 members.

2. THE CHIEF REASONS FOR REFORM, as stated in the Reports, were—

(1) Pauperism was as rife as it was forty years previously.

(2) Expenditure on Poor Relief has grown out of all proportion to the number relieved.

(3) The calibre and ability of the average guardian was not high enough through lack of interest in elections.

(4) Consequently business was mismanaged, and a great deal of distress was left untouched by the Poor Law.

(5) The Union bore no definite relation to the areas of other authorities who performed functions which overlapped the work of the Guardians.

## 3. UNANIMOUS RECOMMENDATIONS—

- \*(1) Abolition of Boards of Guardians.
- \*(2) Enlargement of the area of administration from the Union to the County and County Borough.
- \*(3) Classified Institutions instead of the General Mixed Workhouse.
  - (4) Charitable Aid to be organized.
  - \*(5) Improved Administration of Out Relief.
  - \*(6) Old Age Pensions.
  - \*(7) Children to be removed from Workhouses.
  - \*(8) Labour Exchanges (now Employment Exchanges) to be established.
  - \*(9) State Insurance against Sickness and Unemployment.
  - \*(10) Central Control to be extended and number of higher officials to be increased.
  - \*(11) Discontinuance of Unemployed Workmen Act, 1905.

## 4. MAJORITY RECOMMENDATIONS (not included in above)—

- \*(1) Public Assistance Authorities instead of Boards of Guardians, viz., Committees of County or County Borough for administration purposes.
- \*(2) Public Assistance Committees to be partly nominated by Urban and Rural District Councils and Voluntary Aid Councils to deal with applicants.
- (3) Voluntary Aid Councils and Voluntary Aid Committees to act as intermediaries between public assistance and charity.
- (4) County and Local Medical Assistance Committees to provide medical relief on a provident basis.
- \*(5) Institutional Treatment to be curative and restorative, with periodical revision of cases.
- \*(6) Outdoor Relief to be adequate to needs, subject to careful supervision and case paper system to be adopted.
- (7) Public Assistance Service to be established with qualifying examinations for higher positions.

## 5. MINORITY RECOMMENDATIONS (not included in above)—

- (1) Non-able-bodied to be dealt with by existing committees of the County and County Borough Councils, viz.—
  - (a) Education Committee : Children of school age.
  - (b) Health Committee : Sick and permanently incapacitated ; infants under school age ; aged needing institutional care.
  - (c) Asylums Committee : Mentally defective of all grades and ages.
  - (d) Pensions Committee : Aged to whom pensions are awarded.
- These Committees to be supervised by the appropriate Government Departments.

This merger is authorized by the Local Government Act, 1929, Sec. 5, but it rests with the local authorities to determine when it shall be carried out.

\*(2) Able-bodied to be dealt with by an authority charged only with this specific duty.

\*(3) Unemployment to be under the control of a Minister for Labour charged with the duties previously referred to.

\*(4) The training of unemployed and control of parliamentary funds for national schemes, including afforestation.

(5) Registrars of Public Assistance to be appointed for local areas to prevent overlapping.

6. THE COUNTY COUNCILS ASSOCIATION, in 1911, devised a scheme of County Poor Law Committees, constituted by the County Councils, with subordinate District Poor Law Boards. This scheme was approved by almost all the signatories of both the Majority and Minority Reports of the Royal Commission.

7. THE LOCAL GOVERNMENT COMMITTEE (the Maclean Committee) appointed by the Ministry of Reconstruction, reported in January, 1918, and recommended the abolition of Boards of Guardians and the Poor Law Unions and the transference of their functions to the County Councils and County Borough Councils. On the 27th May, 1925, the House of Commons resolved that legislation on the lines of the Maclean Report should be passed, including "a complete absorption of the existing Poor Law authorities and their functions in the county, borough, and district councils."

8. GOVERNMENT PROPOSALS were issued in December, 1925. The objects which it was sought to attain were incorporated in the Local Government Act, 1929.

#### LOCAL GOVERNMENT ACT, 1929

The Local Government Act, 1929, Part I, as from 1st April, 1930, provided for the—

(1) Abolition of Boards of Guardians.

(2) Transfer of powers and duties to Public Assistance Authority  
(a) County Borough Councils; and

(b) County Councils for remainder of county under a scheme to be submitted to the Minister of Health.

(3) Repeal of Unemployed Workmen Act, 1905, as from 1st April, 1930.

(4) PUBLIC ASSISTANCE COMMITTEES constituted by Councils of Counties and County Boroughs to carry out functions—

(a) May be either a new or an existing committee of the council.

(b) Not more than one-third of members may be co-opted, some of whom shall be women. (Poor Law Act, 1930, Sec. 4 (b).)

(c) Administration of the Poor Law in the area will be in the hands of this committee.

(d) Duties may be carried out, wholly or in part, by existing committees of the local authority.

(e) County borough councils appoint Relief Committees as sub-committees of the Public Assistance Committee.

(5) **GUARDIANS' COMMITTEES** and Sub-committees in county areas consisting of 12-36 members, including—

(a) Members of the Councils of the Districts;

(b) Local members of County Councils; and

(c) One-third appointed by County Council from persons not being elected members of the County Council and including women as well as men.

(6) *Duties of Guardians Committees* include—

(i) The consideration and examination of applications for relief;

(ii) The determination of the nature and amount of the outdoor relief to be given to such applicants;

A Public Assistance Committee cannot legally intervene to reverse the decision of a Guardians Committee as to the amount of outdoor relief granted in any particular case, or to alter the amount of such relief granted.

(iii) The determination of the amount, if any, to be paid by any recipient of relief, or the persons liable for his maintenance towards reimbursing the council the amount expended by them on relief;

(iv) The visiting, inspection or management, if the public assistance committee so request, of any poor law institutions in the area for which the guardians committee is appointed, so, however, that the functions to be delegated shall not include the appointment or dismissal of any officer.

(7) *Adjudicating Officers and Co-ordinating Officers* have replaced Guardians Committees in the Counties of London and Middlesex and certain other areas under Schemes approved by the Minister of Health.

(8) Disqualification due to relief extends to members of all local authorities including county councils, county borough councils, public assistance committees and its sub-committees. (Local Government Act, 1933, Sec. 59 (1) (c).)

(9) Public Health Act, 1936, Part VII. Functions in respect of child life protection are discharged by the Welfare authorities—

(a) County borough councils, and

(b) County councils or

(c) District councils having a Maternity and Child Welfare Committee.

(10) Vaccination duties shall be discharged by councils of counties and county boroughs as functions relating to public health.

(11) ALTERNATIVE POWERS OF GIVING ASSISTANCE may be provided in an administrative scheme whereby any assistance which may be provided either by way of poor relief or by virtue of any of the following Acts as amended by any subsequent enactment—

- (a) The Public Health Act, 1875;
- (b) The Local Government Act, 1888;
- (c) The Mental Deficiency Act, 1913;
- (d) The Maternity and Child Welfare Act, 1918;
- (e) The Blind Persons Act, 1920;
- (f) The Public Health (Tuberculosis) Act, 1921;
- (g) The Education Act, 1921,

shall be provided exclusively by virtue of the appropriate Act and not by way of poor relief. (Local Government Act, 1929, Sec. 5.)

The provisions relating to (a), (b), (d) and (f) above have now been incorporated in the Public Health Act, 1936.

It rests with the local authorities, however, to determine when these provisions shall be carried out.

#### THE POOR LAW ACT, 1930

THE POOR LAW ACT, 1930, is a consolidating Act of 246 Sections, embracing the whole of poor law administration. It has been passed to incorporate the provisions of the Poor Law Consolidation Act, 1927, with the Local Government Act, 1929, Part I.

It is divided into the following parts—

Part I. Central and Local Administration.

Part II. Relief of the Poor.

Part III. Irremovability, Settlement, and Removal.

Part IV. Financial Provisions.

Part V. Acquisition and Disposal of Property.

Part VI. London.

Part VII. Central Administration.

Part VIII. General.

The administration is uniform and the provisions are the least permissive of any Local Government law.

1. THE CENTRAL AUTHORITY is the Minister of Health.

2. RELIEF OF THE POOR under the Poor Law Act, 1930, supplemented by the Public Assistance Order, 1930, the Relief Regulation Order, 1930, the Public Assistance Accounts (County

Councils) Regulations, 1930, the Accounts (Boroughs and Metropolitan Boroughs) Regulations, 1930, the Poor Law Institutions (Mental Defectives) Order, 1917, and the Casual Poor Relief Order, 1931.

By the Public Assistance Order, 1930, all Rules, Orders, and Regulations relating to the relief of the poor, whether general or special, save those set out above, are rescinded, and the above Orders, therefore, constitute the new Poor Law Code operating from 1st April, 1930.

3. PRINCIPLES OF POOR RELIEF as laid down in the Poor Relief Act, 1601, and the Poor Law Acts Amendment Act, 1834, as incorporated in the Poor Law Act, 1930—

(1) *Relief* by the State for its own protection and as a remedy against the evils of destitution.

Destitution implies that a subject is for the time being without material resources directly available and appropriate for satisfying his physical needs, whether actually existing or likely to arise immediately. By physical needs are meant such needs as must be satisfied in order to maintain life, or in order to obviate, mitigate or remove causes endangering life or likely to endanger life or impair health or bodily fitness for self-support.

(2) *Repression*, by making the relief repulsive to the moral sense, and severe in the treatment of the idle, immoral, and vicious.

(3) *Remedial* provision of means to rear, educate and train children who are without proper protection and care.

4. DUTIES of the Public Assistance Authority are—

(a) To set to work all able-bodied male persons who have no means of maintaining themselves.

(b) To provide relief for the lame, impotent, old, blind, and other poor persons not able to work.

(c) To put out as apprentices all children whose parents are not able to keep and maintain them.

(d) To do and execute all other things concerning the matters aforesaid as the council may deem convenient.

The duties of the council under this Section shall apply to all persons within their county or county borough. (Sec. 15.)

5. METHOD OF RELIEF is indoor, outdoor, or medical relief.

(1) *Indoor or Institutional Relief* is maintenance supplied in accordance with Part III of the Poor Law Institutions Order, 1930, in an institution such as,

(a) General Workhouses or Institutions.

(b) Workhouse or Institution Infirmaries.

(c) District Sick Asylums.

(d) Homes for Aged Poor.

- (e) Casual Wards.
- (f) District or separate Schools.
- (g) Scattered Homes.
- (h) Cottage Homes.
- (i) Boarding out of Children.
- (j) Special or Joint Institutions.

*The Poor Law (Amendment) Act, 1938*, authorizes the payment out of local rates of a personal allowance not exceeding 2s. per week to inmates of Poor Law Institutions over 65 years of age.

(2) *Outdoor Relief or Domiciliary Aliment* is maintenance wholly or in part by means of an allowance in cash or kind in accordance with the Relief Regulation Order, 1930.

*The Poor Law Act, 1934*, extended the Poor Law Act, 1930, Sec. 48 (1) under which certain income has to be disregarded in determining the amount of relief to be granted. The effect of the Act was generally to assimilate the procedure throughout Great Britain and also make it uniform with unemployment assistance in this respect.

(3) *Medical Relief* is all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the medical officer.

6. **SETTLEMENT** is the basis of claim for relief. It may be based upon birth, parentage, marriage, ownership, occupation of property, apprenticeship, or residence.

7. **OFFICERS**, the number and remuneration of the Senior of whom require the approval of the Minister of Health, include—

- (1) Clerk—who is usually the Clerk of the County or County Borough Council.
- (2) Treasurer—who is usually the County or Borough Treasurer.
- (3) Master and Matron of the Workhouse.
- (4) Relieving Officers.
- (5) Medical Officers.
- (6) Such other officers as the Public Assistance Authority think necessary, e.g. Public Assistance Officer.

#### 8. FINANCE—

(1) *Expenses* are collected as part of the General Rate in boroughs and as General Expenses in counties.

(2) *Loans* are repayable within a period of not exceeding sixty years.

(3) *Accounts* are made up yearly to 31st March, in accordance with Part V of the Local Government Act, 1933, the Public Assistance Accounts (County Councils) Regulations, 1930, and the Accounts (Borough and Metropolitan Boroughs) Regulations,

1930. They are subject to audit by the District Auditor of the Ministry of Health.

#### 9. RIGHTS OF ELECTORS—

- (1) To inspect and make a copy or extract of—
  - (a) The books or other documents submitted for audit;
  - (b) The Minutes of the Council;
  - (c) Orders for the payment of money;
  - (d) Abstract of accounts; and
  - (e) Report of an auditor on the accounts.
- (2) To purchase at a reasonable sum the abstract of accounts and any auditor's report thereon.

REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES. The Local Government Act, 1929, Part II, provided that the functions of Boards of Guardians under the Registration Acts should be transferred to County and County Borough Councils. All new appointments are to be salaried, and existing officers have the right to be salaried. The Minister may by Order increase fees by 50 per cent. A new scheme was to be submitted to the Minister by 1st April, 1932, or such later date as the Minister might allow.

The subject of this chapter is dealt with in great detail in *Public Assistance and Unemployment Assistance* (Pitman).

## CHAPTER XXIV

### MENTAL TREATMENT

THE CLASSES of persons who come within the Lunacy Acts, 1890 to 1922, and the Mental Treatment Act, 1930, include those who are of unsound mind or mentally infirm.

THE MENTAL TREATMENT ACT, 1930, continues further the legislation based on the Report of the Royal Commission on Lunacy Law and Administration and Mental Disorder, and is incorporated in the text of this chapter.

THE CENTRAL AUTHORITIES include—

*The Lord Chancellor*, who is responsible for judicial functions. *The Commissioners in Lunacy*, who are now merged in the Board of Control (see below).

*A Master in Lunacy*, who is assisted by an officer termed the Assistant Master in Lunacy, as provided by the Lunacy Act, 1922, and the Visitors in Lunacy.

*The Minister of Health*, who is responsible to Parliament for THE BOARD OF CONTROL which was established by the Mental Deficiency Act, 1913, and reconstituted by the Mental Treatment Act, 1930; and consists of the

(a) Chairman (who shall be a paid Commissioner), and  
(b) not more than four other Senior Paid Commissioners, at least one being a woman. Of these,

(i) one must be a Legal Commissioner appointed by the Lord Chancellor from amongst barristers or solicitors of five years' standing; and

(ii) two appointed by the Minister of Health are Medical Commissioners, who must be duly qualified medical practitioners of at least five years' standing.

The Minister of Health appoints one of the Commissioners to be chairman.

The Board of Control is a Corporate Body, with perpetual succession and a common seal.

The duties of the Board of Control include

- (a) supervision of the administration by the local authorities;
- (b) certification and approval of premises;
- (c) provision and maintenance of State institutions;
- (d) administration of grants provided by Parliament; and
- (e) such other powers and duties of the Board as may be assigned, including the preparation of annual and other reports.

## PERSONS OF UNSOUND MIND

Persons of Unsound Mind, formerly known as lunatics, are detained in—

- (a) County and borough mental hospitals.
- (b) Registered hospitals receiving persons of unsound mind.
- (c) Houses licensed for the purpose.
- (d) State institutions, viz.—
  - (i) Criminal asylums.
  - (ii) Royal Military and Naval hospitals.
  - (iii) Institutions of the Board of Control.
- (e) Public Assistance institutions, in which there are any persons of unsound mind, imbeciles, or idiots.
- (f) Houses scattered over the country providing for single patients.

THE LOCAL AUTHORITY is (generally) the Council of the County or County Borough, who must appoint—

VISITING OR ASYLUMS COMMITTEE. This Committee is to consist of not less than seven members (Act, 1930), and appointed by the local authority interested, and its members are known as visitors.

Joint Committees or Joint Boards may be constituted with the approval of the Minister of Health; e.g.

The Lancashire Mental Hospitals Board is the local authority for the area of the Board, and the provisions of the Lancashire County (Lunatic Asylums and other Powers) Act, 1891, as to expenses, borrowing, accounts, and audit apply accordingly.

THE POWERS AND DUTIES of Local Authorities include—

- (a) The provision of accommodation for their rate-aided patients of unsound mind.
- (b) The management of the mental hospital, the making of rules and regulations for its government.
- (c) *The Mental Treatment Act, 1930*, permits any person who is desirous of voluntarily submitting himself to treatment for mental illness to make a written application to the person in charge of an institution.
- (d) Power is also given by the same Act to lodge relatives and friends of patients.
- (e) Persons may also be received for temporary treatment without certification.
- (f) Boarding-out under a scheme approved by the Board of Control.
- (g) Arrangements may be made with another authority, or a joint mental hospital may be maintained.
- (h) May provide accommodation for persons of unsound mind of the private class.

OFFICERS include: (i) Chaplain, (ii) Medical Officer, (iii) Superintendent, (iv) Clerk, (v) Treasurer.

FINANCE. In order to meet the cost of the work under these Acts, provision is made in the new block grant under the Local Government Act, 1929. In addition to this, Parliament contributes further amounts for criminals and towards expenses of societies for assisting and supervising defectives while not in institutions. Contributions may be received from patients or their relatives.

THE EXPENSES of Local Authorities under the principal Act or the 1930 Act, in so far as not met out of patients' contributions or State Grants as described above are defrayed—

- (a) in the case of a County out of the General County Fund;
- (b) in the case of a County Borough, out of the General Rate Fund.

A Justices' Order may be obtained to secure the funds and take the rents of the property of a rate-aided patient towards the expenses of maintenance. Under the principal Act money in the bank may be obtained without an Order.

LOANS. Money may be borrowed for approved purposes over a period not exceeding sixty years, subject to the consent of the Minister of Health.

ACCOUNTS. Separate accounts must be kept where a local authority maintains a certified institution, made up to the 31st March.

ANNUAL RETURNS have to be made to the Board of Control, which necessitates the division of the accounts into—

1. Maintenance Account.
2. Building and Repairs Fund Account.
3. Farming and Gardening Account.

AUDIT. Accounts are subject to audit by the District Auditor of the Ministry of Health, except in the case of boroughs, where they are audited in the same manner as the other borough accounts, which may be by—

- (i) Borough Auditors; or
- (ii) Professional Auditors; or
- (iii) the District Auditor.

#### MENTAL DEFECTIVES

The classes of persons who are mentally defective and are defectives within the meaning of the Mental Deficiency Act, 1913, are those persons whom two medical men are prepared to certify as coming within the definitions laid down for idiots,

imbeciles, feeble-minded persons, and moral imbeciles. The Act came into operation on 1st April, 1914.

LOCAL AUTHORITY. Every county and county borough council must constitute—

COMMITTEE FOR THE CARE OF THE MENTALLY DEFECTIVE, composed

- (a) as to a majority, of members of the Council;
- (b) of other persons having special knowledge and experience with respect to the care, control, and treatment of defectives;
- (c) some women must be appointed thereon;
- (d) number is determined by the Council not being less than seven (Act 1930).

When a local authority has appointed one or more Visiting or Asylum Committees, then, if the authority so determines, either—

(a) The Visiting or Mental Hospital Committee (with the addition of at least two women, if such are not on the Committee) may act as the COMMITTEE FOR THE CARE OF THE MENTALLY DEFECTIVE; or,

(b) alternatively, the Visiting or Mental Hospital Committee (without addition) may represent the Council on the Committee for the care of the Mentally Defective.

The powers of the local authority under the Act (except the power of raising a rate or borrowing money) may stand referred to the Committee.

DUTIES OF LOCAL AUTHORITY. The first duty of a local authority is to ascertain which persons within their area are defectives, and subject to be dealt with under Sec. 2 (1) (b) of the Act of 1913; that is to say—

1. Defectives who are found neglected, abandoned, and without visible means of support, or cruelly treated.

2. Defectives found guilty of crime or found liable to be ordered to be sent to an approved school.

3. Habitual drunkards.

4. Children notified by the education authorities as incapable of receiving benefit in a special school or without detriment to other children.

THE MENTAL DEFICIENCY (AMENDMENT) ACT, 1925, amends Sec. 7 of the Mental Deficiency Act, 1913, for the purpose of enabling a defective to be removed from an institution for the purpose of being placed under guardianship.

Mental Treatment Rules were issued in 1930.

THE MENTAL DEFICIENCY ACT, 1927, provides for the amendment and alteration of the definition of "defectives" in the Act of 1913, under which only persons mentally defective from

birth or early age come within its scope. There was thus no power to deal with cases where the defectiveness arose at a later stage, which might particularly need the sort of care and treatment which can be provided in a mental deficiency colony.

The Act brings within its scope of treatment all cases of "mental deficiency," whether innate or induced after birth by disease, injury, or other causes. Others who will come in are those not under proper care and control; while the power of local authorities to provide suitable training for mental defectives is made explicit.

THE MENTAL DEFICIENCY ACT, 1938, enables the responsible authority to detain a defective for a period of one month beyond the expiry of a Detention Order. This facilitates the making of inquiries and provides the prescribed Special Reports and Certificates pending the issue of a Continuation Order.

STERILIZATION OF MENTALLY DEFECTIVES. In June, 1932, the Minister of Health appointed a Committee under the Chairmanship of Mr. (now Sir) Lawrence G. Brock: To examine and report on the information already available regarding the hereditary transmission and other causes of mental disorder and deficiency; to consider the value of sterilization as a preventive measure having regard to its physical, psychological and social effects, and to the experience of legislature in other countries permitting it; and to suggest what further inquiries might usefully be undertaken in this connection.

The Committee reported in 1934 in favour of a voluntary system in respect of persons who fall under one of the following categories: (a) mental defectives or persons who have suffered from mental disorder; (b) persons likely to transmit either of these incapacities; (c) persons suffering from a grave physical disability, such as certain forms of blindness and deaf-mutism.

The subject of Mental Treatment is dealt with fully in *Public Assistance and Unemployment Assistance* (Pitman).

## CHAPTER XXV

# UNEMPLOYMENT

### INTRODUCTION

The unemployment situation has not arisen suddenly, nor is it peculiar to this country. In 1907-8, unemployment in some of the heavy industries reached figures comparable with those with which we are familiar, and was experienced in most trades. After the War there was a trade "boom," but in 1921 there succeeded an intense industrial depression, affecting all industries at first, and continuing, with fluctuations, in several important industries up to the present time.

In one month only since 1921, viz. April, 1926, has the daily number of unemployed persons been below a million.

CAUSES OF UNEMPLOYMENT fall into three main groups—

- (i) Those which spring from the organization of industry;
- (ii) Failures in industrial relations;
- (iii) Personal causes of unemployment.

It is extremely difficult to present an impartial picture of the causes of unemployment, but, as a Blue Book, there was issued, in May, 1909, in connection with the Royal Commission on the Poor Laws and Relief of Distress, an interesting report. The document embraces the results of inquiry made by Mr. (the late Sir) A. D. Steel Maitland and Miss Rose Squire (His Majesty's Inspector of Factories) on the relation of industrial and sanitary conditions to pauperism, together with a memorandum on certain other points connected with the Poor Law system and its administration.

### THE POOR LAWS AND UNEMPLOYMENT.

(1) It is important to observe that the earliest laws for the relief of the poor made a clear cut distinction between the impotent and able-bodied, and provided a different form of treatment for each. The impotent had to be relieved, but the able-bodied had to be set to work upon stocks of material provided by the parochial authority for that purpose.

The first workhouse was a factory for the destitute unemployed—hence its name. The test of destitution was the offer of the workhouse. From this developed the labour test, *i.e.* the performance of a task by the able-bodied as a necessary condition of relief.

The abolition of this test, towards the end of the eighteenth century, was responsible for the worst period of demoralization which this country has known.

**THE UNEMPLOYED WORKMEN Act, 1905.**

This Act provided for the establishment of Distress Committees in every Metropolitan Borough and in provincial Boroughs and Urban Districts with a population of not less than 50,000, and also for a Central Body for the County of London.

The economic effects of the Act were widely criticized. Publicly provided work was more easily found than normal employment, and search for the latter was hindered. The Act was good in principle—to meet temporary distress—but as a permanent measure it was denounced by the Royal Commission on the Poor Laws set up in 1905 and was ultimately repealed by the Local Government Act, 1929.

**EMPLOYMENT EXCHANGES.**

The Royal Commission on the Poor Laws also unanimously recommended the establishment of Labour Exchanges under national control, together with State Insurance against unemployment. The Minority Report advocated a scheme on the lines of the Ghent System, under which trade unions are subsidized to undertake the work. The Labour Exchanges Act, 1909, set up a system which was a compromise between the general scheme of the Majority and the Minority proposals.

**THE UNEMPLOYMENT INSURANCE ACTS.**

A compulsory system of insurance against unemployment constituted Part II of the National Insurance Act, 1911. It applied originally to a limited number of industries, but the conditions of benefit and other regulations were amended from time to time. The previous legislation was consolidated by the Unemployment Insurance Act, 1920. It has been amended repeatedly to meet the prevailing industrial crisis and finally consolidated in the Unemployment Insurance Act, 1935.

*Central Administration.* The Acts are administered by the Ministry of Labour through the Employment Exchanges.

*Insured Persons.* Insured persons are all persons for whom health insurance contributions have to be paid, except out-workers or persons employed in agriculture (including horticulture and forestry) or in private domestic service. As distinct from health insurance, with certain exceptions, workpeople over 70 (other than old age pensioners) are insurable. A separate scheme for agriculture was established in 1936.

A ROYAL COMMISSION ON UNEMPLOYMENT INSURANCE was appointed late in 1930, under the Chairmanship of His Honour Judge Holman Gregory, to inquire into the provisions and working of the Unemployment Insurance Scheme.

THE FIRST REPORT was issued in June, 1931, and resulted in the passing of the Unemployment Insurance (No. 3) Act, 1931, and the Regulations under the Anomalies Act, 1931.

The FINAL REPORT was published in November, 1932. It proposed fundamental alterations not only in the administration of the needs test, but also in the administration of the poor law, which would affect local government administration. The Commission recommended that an independent Advisory Commission should be appointed as an advisory body to the Minister. The Commission proposed a dual system of insurance and relief.

THE UNEMPLOYMENT INSURANCE (NATIONAL ECONOMY) (No. 2) ORDER, 1931, substituted the transitional payments scheme for the former transitional benefits and placed upon Public Assistance Authorities the functions of making determinations upon which transitional payments were made according to a needs test. Determinations ceased to be made by the Public Assistance Authority as from the First Appointed Day (7th January, 1935).

THE TRANSITIONAL PAYMENTS (DETERMINATION OF NEED) ACT, 1932, laid down certain rules for the application of the Needs Test for the unemployed. This Act continued until the "Second Appointed Day" (1st April, 1937) for the operation of Part II of the Unemployment Act, 1934, after which, with some modifications, its provisions, as incorporated in the Unemployment Assistance Act, 1934, apply to Unemployment Assistance.

THE UNEMPLOYMENT ASSISTANCE ACT, 1934. Following the Report of the Royal Commission on Unemployment Insurance, 1932, Part I of this Act provided for the setting up of an Unemployment Insurance Statutory Committee. Part II of the Act of 1934 set up the Unemployment Assistance Scheme whereby assistance to the able-bodied unemployed, with certain exceptions, was made the responsibility of the newly established Unemployment Assistance Board. Local authorities were required to make a contribution equivalent to 60 per cent of their expenditure during 1932-3, on the transferred service which is recovered by deduction in fixing the General Exchequer Contribution payable under the Local Government Act, 1929, as amended.

*The National Health Insurance and Contributory Pensions Act, 1935, restored benefit in respect of the unemployed under certain conditions.*

*The Unemployment Assistance (Temporary Provisions) (No. 2) Act, 1935, carried out the agreement under which the local authorities were compensated by grants from the Exchequer for the postponement of the second appointed day from 1st March when they should have been relieved of responsibility for the*

able-bodied unemployed coming within the scope of Part II of the Act of 1934.

These provisions would have expired but subsequent Acts continued the payments until the Second Appointed Day (1st April, 1937), when the Unemployment Assistance Board assumed their full responsibility.

This is dealt with in detail in *Public Assistance and Unemployment Assistance* (Pitman).

#### REMEDIAL MEASURES.

The State has endeavoured to deal with the problem along various main lines of effort, viz.—

- (1) *Safeguarding the home by*—
  - (i) Old Age Pensions and Widows' and Orphans' Allowances.
  - (ii) National Health Insurance.
  - (iii) National Unemployment Insurance.
  - (iv) Unemployment Assistance.
- (2) *Assistance of home trade by*—
  - (i) Trade Boards.
  - (ii) Agricultural Wages Regulation Boards
  - (iii) Derating of Agricultural Land and Buildings and partial derating Industrial and Freight Transport Hereditaments as provided by the Local Government Act, 1929, Part V, and the Agricultural Rates Act, 1929.
- (3) *The stimulation of foreign trade under*—
  - (i) The Trade Facilities Acts.
  - (ii) The Export Credit Schemes.
  - (iii) Colonial Development Act, 1929.
  - (iv) Development (Loans Guarantee and Grants) Act, 1929 (lapsed).
    - (v) Departure from the Gold Standard in 1931.
    - (vi) Export Guarantees Act, 1937.
    - (vii) Exchange Equalization Fund.
- (4) *Relief works, including*—
  - (i) The Unemployed Workmen Act, 1905. (Repealed as from the 31st March, 1930, by the Local Government Act, 1929.)
  - (ii) The Unemployment (Relief Works) Act, 1920, superseded by the Public Works Facilities Act, 1930.
  - (iii) The Unemployment Grants Committee (lapsed in 1931).
  - (iv) The speeding up of Government work, e.g. the Forestry Commission, Post Office, War Office, Admiralty, Air Ministry.
  - (v) The Public Works Facilities Act, 1930.
  - (vi) Appointment of Commissioners for Special Areas, 1934.
- (5) *Transfer of labour*—
  - (i) Assisted Emigration.
  - (ii) Industrial Transference.

(6) *Stimulation of industries* by—

- (i) Imposition of Import Duties and Quotas.
- (ii) Implementation of Marketing Schemes.
- (iii) Special Areas Reconstruction (Agreement) Act, 1936.
- (iv) Special Areas (Amendment) Act, 1937.

## MUNICIPAL RELIEF WORKS.

The Unemployed (Relief Works) Act, 1920, was hurriedly passed to facilitate the acquisition of and entry upon land required for works of public utility, viz. roads, bridges, viaducts, waterways, harbours, sewers, waterworks, afforestation, and land drainage or reclamation. Its provisions are largely superseded by the Public Works Facilities Act, 1930.

## THE PUBLIC WORKS FACILITIES ACT, 1930.

(1) A local authority proceeding under the Act must prepare a scheme showing all necessary particulars, with plans and detailed estimates, together with a copy of the resolutions making application for the loan necessary to finance the scheme.

(2) The scheme must be submitted in duplicate and will state whether the works will be revenue producing or not, the number of men likely to be employed, and for how long.

(3) If the local authority intend to carry out the works by direct labour, they must supply particulars of the rate of wages to be paid and the prevailing rates in the district.

(4) The Ministry of Labour is notified of the application and must certify that unemployment in the district is serious and not otherwise provided for. Grants will not be made for works already in receipt of grants from the Government.

(5) The labour must be recruited from the Employment Exchange and the men released if other work is found for them. The Public Assistance Department may make nominations for men to be taken for the work; 75 per cent of the men must be ex-service men. The local authority may employ up to 10 per cent of the men from their permanent staff for purposes of supervision and control, but no grant will ordinarily be payable for these.

(6) The rate of wages must not exceed the rate paid by the local authority to its own men on similar work or the recognized district rate, whichever is lower.

(7) It is a condition of all unemployment grants that all contracts and orders for materials incidental to the works shall be placed in the United Kingdom, subject to such exceptions as may be allowed.

(8) The local authority borrows the money in the first instance and receives annual grants towards the cost of the annual charges.

## THE UNEMPLOYMENT GRANTS COMMITTEE.

Constituted by Treasury Minute dated 20th December, 1920 (chairman, the Right Hon. Viscount St. Davids), for the purpose of assisting local authorities in the United Kingdom in carrying out approved schemes of useful work other than work on roads and on housing schemes. This Committee lapsed in 1931.

## PRIME MINISTER'S CONFERENCE WITH LOCAL AUTHORITIES.

In June, 1930, the Prime Minister arranged a Conference between representatives of local authorities and the Ministers of Health and Transport. Statement of policy was made and new conditions outlined. Following the Conference, the new terms and conditions were published in the following documents—

*Ministry of Health Circular 1,126 (3rd July, 1930).*

*Ministry of Transport, No. 334 (Roads).*

*Unemployment Grants Committee, No. 26.*

New rates of grants were fixed as follows, viz.—

I. Schemes financed by way of loans.

(1) Non-revenue producing schemes—

75 per cent of the annual loan charges for the first half of the loan period up to fifteen years.

$37\frac{1}{2}$  per cent for the remainder of the period up to fifteen years.

(2) Revenue-producing schemes—

(a) Normal works—50 per cent of the interest for the loan period, or fifteen years, whichever be the shorter.

(b) Special works of high economic value and of not less than £100,000 (e.g. docks and waterworks), 100 per cent of interest up to an approved date; 50 per cent thereafter for fifteen years in all.

(c) Special public health works (e.g. rural water supply and baths and washhouses), 100 per cent interest for seven years; 50 per cent thereafter or eight years, whichever be the shorter.

II. Schemes financed out of revenue.

(2) Abnormal unemployment areas (exceeding 15 per cent), 90 per cent wages of unemployed men engaged.

(3) Other areas, 75 per cent thereof.

*The National Economy Act, 1931*, restricted the activities of both Government Departments and local authorities.

## EQUATION OF GRANTS.

Local authorities may arrange to receive equal annual payments over the whole period of the loan equivalent to the normal payments, and in this way spread the burden of the loan charges equally over the whole period, thus preventing a sudden increase in the annual charges when the grants would normally cease, and when expenditure on repairs and renewals would begin to create an additional burden.

## SECTION VII

### Local Finance

#### CHAPTER XXVI

##### GRANTS-IN-AID

1. **DEFINITION.** "By a 'Grant-in-Aid,' the English administrator understands a subvention payable from the Exchequer of the United Kingdom to a Local Governing Authority, in order to assist that Authority in execution of some or all of its statutory duties. The subvention may be an isolated payment, but is usually recurrent or annual. It may be a matter of statutory obligation or dependent on the recurring decision of the Minister in charge of a particular department. It may be unconditionally of fixed amount, or variable according to the circumstances of the time. Most important of all, its variable amount may be dependent on the growth of population, or of a particular section of it, of the amount of some particular service, on the number of officers appointed or the sum of their salaries, on the expenditure of the receiving authority, on the rateable value of its district, on the efficiency of its work, or on some other condition." (Sidney Webb.)

2. **THE ADVANTAGES CLAIMED FOR GRANTS-IN-AID** may be summarized as follows—

(1) Many functions of local authorities are national services locally administered.

(2) They equalize the effects of the different incidence of taxes and rates.

(3) They enable the central government to exercise control over local administration, promote uniformity, and enforce a minimum standard of efficiency.

(4) They may be used to relieve the over-burdening of necessitous areas.

3. **THE DISADVANTAGES URGED** are—

(1) It is a dangerous principle to establish a system by which great claims can be made on the National Exchequer.

(2) There cannot be any effective Parliamentary control over such expenditure.

(3) It is uneconomical.

- (4) It is difficult to define the proper subjects for such contribution.
- (5) It does not prevent marked fluctuations in local expenditure.

4. THE SYSTEM OF STATE SUBVENTIONS was inaugurated in 1833 when £20,000 was allocated to assist in the erection of school buildings. The following year a grant-in-aid of the Metropolitan Police was made, and extended to provincial forces in 1857. In 1834 grants were extended towards the cost of criminal prosecutions and the maintenance of prisons. Grants to Guardians of the Poor towards the cost of the salaries of teachers in Poor Law Schools and the cost of drugs and medical appliances commenced in 1846, and grants to sanitary authorities followed in 1872. In 1874 a grant was introduced in aid of the cost of maintaining pauper lunatics, and a grant consequent on the increased cost of registration of births and deaths. Grants to Highway Authorities towards the maintenance of disturnpiked roads commenced in 1882.

5. THE LOCAL GOVERNMENT ACT, 1888, introduced a new financial arrangement whereby the direct grants (except education) ceased, but certain revenues were assigned to the local authorities. The assigned revenues were to be paid to the Local Taxation Account, and disbursed to the County and County Borough Councils, who were to pay the grants to their Exchequer Contribution Account and make the payments directed by the Act. The assigned revenues consisted of the proceeds of certain local taxation licences and 80 per cent of one-half of the proceeds of probate duty (now estate duty) levied on personality. The various Diseases of Animals Acts passed subsequently provided that part of the cost of their administration should be met out of the revenue of the Local Taxation Account.

6. THE LOCAL TAXATION (CUSTOMS AND EXCISE DUTIES) ACT, 1890, increased the duties on beer and spirits, and it was provided that 80 per cent of the additional revenue should be applied in aid of local services; £300,000 per annum was to be applied in aid of Police Superannuation, and the balance allocated on the same basis as the Probate Duty Grants. This new grant became known as the "Whisky Money," and under the provisions of the Education Act, 1902, the whole proceeds had in future to be devoted to purposes of higher education.

7. THE AGRICULTURAL RATES ACTS, 1896-1923, relieved the owners of agricultural land of a proportion of their rates, and the local authorities were reimbursed through the Local Taxation Account. The relief was three-quarters, but the combined effect

of the Local Government Act, 1929, Sec. 67, and the Agricultural Rates Act, 1929, was totally to exempt agricultural land and buildings as from 1st April, 1929.

8. THE FINANCE ACT, 1907, provided that the proceeds of the licences and duties should be paid into the Consolidated Fund and subsequently transferred to the Local Taxation Account. The amounts transferred being stereotyped from time to time by the Government, at the yield for a given year, the expansion in the yield passed to the Imperial Exchequer.

9. THE FINANCE ACT, 1908, placed the duty of levying certain licences (mainly for dogs) upon the County and County Borough Councils, and an annual contribution was made towards the cost of collection, but this has been discontinued. Since the Financial Settlement of 1888 the Government have imposed many additional responsibilities upon local authorities. These have been aided by new grants paid directly to the various local authorities and not through the Local Taxation Account. They have usually taken the form of a percentage of the expenditure incurred.

10. A STATEMENT showing the various services aided and the basis of the grants paid is given on page 214.

11. PRESENT POSITION. Many of these grants can be traced to the findings of the Royal Commission on Local Taxation (1896) which recommended increased grants for locally administered services.

*The Kempe Committee* (1910-1914) advised the abolition of the system of assigned revenues, and recommended direct grants for specific services conditional upon efficiency.

*The Geddes Committee* (1921) condemned the system of percentage grants as being founded on an uneconomic basis, and made suggestions for drastic cuts.

*A Departmental Committee*, under Lord Meston's chairmanship, which was appointed in 1922, took considerable evidence with a view to finding a more satisfactory system, but the Report was not published.

#### RE-ORGANIZATION OF GRANTS-IN-AID

1. Part VI of the Local Government Act, 1929, deals with the revised financial relations between the National Exchequer and the local authorities.

2. ABOLISHED GRANTS. The following Exchequer Grants-in-aid of local services were abolished as from April, 1930—

- (1) The Assigned Revenue Grants.
- (2) The Grants under the Agricultural Rates Acts, 1896 and 1923.

GOVERNMENT GRANTS-IN-AID OF  
LOCAL GOVERNMENT

CENTRAL DEPARTMENT	SERVICE	NORMAL GRANT
Board of Education	Elementary Education Higher Education Museums and Art Gal- leries	Fisher Formula (See page 222) 50% net approved expenditure 50% recognized expenditure
Ministry of Health	General Aid Grants  Health Visitors and Mid- wives Training Port Health Housing Midwives, 1936 Act Police and Pensions Registration of Electors Nursing Approved Schools Probation of Offenders Inebriates' Homes Conveyance of Pris- oners Air Raid Precautions	Block grant on weighted pop- ulation basis £20 and £35 per successful trainee 50% net approved expenditure (See pages 220 and 221) 50% expenditure 50% net approved expenditure 50% according to scale £60-£150 per annum per vehicle 50% net approved expenditure 50% net approved expenditure 1s. per inmate per week Actual cost
Home Office	Juvenile Unemployment Centres and Training Roads— Class I, Maintenance (Counties) Class II, do. Construction and Im- provements Surveyor's Salary and Expenses Registration and Licensing of Vehicles County Agricultural Committees	60% to 85%, according to needs and expenditure  75% net approved expenditure 60% net approved expenditure 50% net approved expenditure 33 to 85% net approved ex- pense 50% net approved expenditure
Ministry of Labour		100%
Ministry of Trans- port		100% cost of administration Pre 1926 schemes, 100% annual loss Post 1926 schemes, 75% annual loss
Ministry of Agricul- ture & Fisheries	Small Holdings Agricultural Education Diseases of Animals Land Drainage Tithes, 1936 Act Farm Training Schemes Afforestation	75% capital expenditure 66½% annual expenditure 75% annual cost of compen- sation Up to 33½% cost of approved works Loss on collection Variable special grants not ex- ceeding £4 per acre planted
Overseas settlem't Forestry Commis- sion		

(3) Percentage grants-in-aid of most health services, e.g. tuberculosis, maternity and child welfare, welfare of the blind, venereal diseases, mental deficiency.

(4) Classification grants for Class I and Class II roads in London and County Boroughs, and grants for the maintenance of unclassified roads in county districts.

Exchequer Grants other than those named above were not affected by the scheme, e.g. Education, Police, Housing, Unemployment, etc.

3. THE NEW EXCHEQUER GRANTS-IN-AID. The loss to the local authorities under the scheme will be the rates on the rateable value lost under the derating proposals described in Chapters III and XXVIII, and the grants specified above other than the parts of the assigned revenues referred to.

(i)	The estimated loss of rates due to derating which would have been incurred by all local authorities in the year 1928-29 (taken for the purpose of the scheme as "the standard year") on the assumption that the proposed local government changes had been in operation in that year, and that the Valuation List in force on the 1st October, 1929, had been in force in that year; estimated at about	£	24,000,000
(ii)	The assigned revenue grants payable for the standard year, other than the grants specifically applied to education and police services and the Local Taxation Licence Duties not passing through the Local Taxation Account;	4,700,000	
(iii)	The Agricultural Rates Acts Grants payable for the standard year;	4,700,000	
(iv)	The Health Percentage Grants payable for the standard year;	3,900,000	
(v)	The classification grants for Class I and Class II roads in London and county boroughs, and the maintenance grants for scheduled roads in county districts payable for the standard year; estimated at about	3,200,000	16,500,000
(vi)	An additional sum of new money for England and Wales, amounting to	5,000,000	
	Making a total as per White Paper	£45,500,000	
	Additional and supplementary Exchequer Grants	2,330,000	
	Making a total of	£47,830,000	

At the commencement of the new grant scheme the pool was composed of the following items—

Losses on account of rates	£	22,292,203
Losses on account of grants	£	16,279,706
Fixed sum	£	38,571,909
Additional Sum	£	5,000,000
	£	£43,571,909

The following statement shows the grants payable for the first two fixed grant periods and estimated figures for the third—

	FIXED GRANT PERIODS		
	First 1931-33	Second 1934-37	Third 1938-42
	£000	£000	£000
Losses on account of rates . . . . .	16,719	16,719	11,146
Losses on account of grants . . . . .	12,210	12,210	8,140
Agricultural Grants . . . . .	14,643	14,993	26,886
General Exchequer Contribution . . . . .	43,572	43,922	46,172
Additional Grants . . . . .	510	463	600
Supplementary Grants . . . . .	1,040	890	830
	£45,122	£45,275	£47,602

4. METHODS OF CALCULATION AND ADJUSTMENT. The loss of rates in the standard year for the purpose of the scheme was calculated as follows—

(a) There was ascertained the net rate-borne expenditure which would have been incurred by each spending authority in the year 1928-29.

(b) The loss of rates in the standard year for each authority was such proportion of the net expenditure so ascertained as the loss of rateable value due to de-rating properties in the valuation list in force on the first of October, 1929, bore to the total rateable value which, apart from the scheme, would have stood in the valuation list.

(c) The loss of grants in the standard year was the amount of the actual grants (for which the new scheme of grants is to be substituted) payable to each authority for the year 1928-29 subject to adjustments in respect of—

- (i) The Agricultural Rates Acts Grants.
- (ii) Health Grants and Road Grants.
- (iii) Health Grants payable to voluntary associations.
- (iv) Grants to voluntary associations in aid of the welfare of the blind.

(v) The Tuberculosis Grants.

(d) At the end of the seven years, the working of the rules of the formula and of the scheme of county distribution was made subject to examination and a report to Parliament.

In the course of debate in the House of Commons in July, 1932,

the Minister of Health undertook to investigate forthwith the operations of the unemployment factor.

A new Order was issued in May, 1932, entitled the Local Government (Calculation of Rate-borne Expenditure, etc.) Regulations, 1932 (S.R. & O., 1932, No. 160). It consolidated and superseded the provisional Regulations which had been issued.

#### 5. DISTRIBUTION OF GRANTS.

(1) The actual total sum to be distributed is based upon the loss of rates and grants as ascertained for the standard year, viz. 1928-29, together with the additional amount.

(2) The additional amount to be included in the grant does not, however, depend in any way on the other figures.

(3) The distribution is fixed as follows—

		Years
(a)	The First Fixed Grant Period .	3 Years
(b)	The Second Fixed Grant Period .	4 "
(c)	The Third Fixed Grant Period .	5 "
(d)	The Fourth Fixed Grant Period .	5 "

And so on in quinquennial periods.

(4) At the end of each Fixed Grant Period a review will take place of the amount to be paid for the next period.

(5) This will be ascertained on such a basis that the extra money provided beyond the loss of rates and grants (the additional sum) will be such an amount as to maintain the original ratio between the General Exchequer Contribution and the rate- and grant-borne expenditure of all local authorities.

(6) The amount receivable by each county and county borough was guaranteed, at the outset of the scheme, to be not less than 1s. a head of the estimated population for the standard year beyond the amount it was then receiving. Generally speaking, this guarantee is to be maintained.

(7) The amount necessary to make up that guarantee is known as the Additional Exchequer Grant.

(8) Supplementary Grants. In addition, each county district is guaranteed that it shall not be any worse off, by reason of the change, during the first five years of the operation of the Act, and any necessary rate adjustment consequent on the scheme will be spread evenly over the next fourteen years thereafter. This provision has been modified.

#### 6. APPORTIONMENT AMONG COUNTIES AND COUNTY BOROUGHES.

(a) The whole of the new grant-in-aid will ultimately be apportioned among Counties and County Boroughs according to the formula based on general characteristics independent of actual expenditure.

(b) Owing to the very irregular distribution of the existing revenues to be replaced by the Formula Grant, it was considered that too great a disturbance in local finance would be caused by introducing a complete allocation on this basis at one step.

(c) Accordingly, the Act provides that the allocation among county and county borough councils shall be made as follows: For the first two periods of three years and four years respectively, 75 per cent of the loss in the standard year and the balance on the formula.

(d) Other periods. Third, 50 per cent; Fourth, 25 per cent.

(e) For the fifth and subsequent period the whole of the grant will be distributed on the formula basis.

#### 7. THE FORMULA. The original formula was as follows—

(1) For each county and county borough a figure of weighted population is arrived at by increasing the population in the standard year as estimated by the Registrar-General—

(a) By the percentage by which the number of children under five years of age per 1,000 of the population of the area exceeds 50; and

(b) By the percentage by which, according to the Valuation List in force on the 1st October, 1929, or on subsequent revisions of the grant in the year prior to the revision, the rateable value per head of estimated population of the area is below £10.

The population so increased is further weighted—

(c) For unemployment: the number of registered unemployed insured persons (women 10 per cent only) is expressed as a percentage of total estimated population, and where this percentage, averaged over three years, exceeds  $1\frac{1}{2}$  per cent, the population increased by (a) and (b) is further increased by a percentage equal to an appropriate multiple, which for the first two fixed grant periods was fixed at ten times the excess over  $1\frac{1}{2}$  per cent.

And in administrative counties other than London—

(d) For low density of population: where the estimated population per mile of roads is, in the appropriate year, less than 100 persons, the population increased by (a) and (b) is further increased by the percentage by which the estimated population per mile of roads is less than 200 persons, and, where the estimated population per mile of roads is 100 persons or more, by the percentage which 50 persons bears to the estimated population per mile of roads.

(2) The total amount of the formula grant allotted to each county borough and to each administrative county will be  $x$  pence multiplied by its weighted population. (The money factor  $x$  pence is determined by the total sum for England and Wales available for distribution on the formula basis.)

## 8. DISTRIBUTION TO BOROUGH AND DISTRICT COUNCILS.

(1) Out of the total amount allotted to each administrative county, a grant is made—

(a) To each non-County Borough and Urban District Council at a uniform figure per head of actual population.

(b) To each Rural District Council at one-fifth of that uniform figure per head of the actual population.

(2) The uniform figure is one-half the amount ascertained by dividing the total grant allotted to all administrative counties outside London by the aggregate unweighted population of the counties.

(3) The aggregate of the grants to the Borough, Urban, and Rural District Councils will then be deducted from the grant appropriate to the administrative county as a whole.

(4) The balance will be the grant payable to the County Council in aid of the general county rate.

## 9. SUBSEQUENT REVISION OF GRANT.

THE LOCAL GOVERNMENT (GENERAL EXCHEQUER CONTRIBUTION) ACT, 1933, fixed the total General Exchequer Contribution for the second fixed grant period (1st April, 1933, to 31st March, 1937) on the basis of the 1931-32 rate-borne expenditure. The additional amount was increased to £5,350,000.

THE LOCAL GOVERNMENT (FINANCIAL PROVISIONS) ACT, 1937, provided for the changes brought about by the statutory investigation of the working of the Formula. Deductions have been made for unemployment assistance contributions, trunk roads, and male servants' licences. The unemployment and density factors have been modified.

## 10. APPLICATION TO LONDON.

(1) Certain modifications of the financial scheme were required to meet the special circumstances of London.

(2) The proposals as regards grants for the first and second fixed grant periods were as follows—

(a) A grant was allocated to the administrative county equivalent to 75 per cent of the loss of rates in the standard year of—

(i) The County Council.

(ii) The Common Council of the City of London.

(iii) The Metropolitan Borough Councils.

Together with the formula grant appropriate to the weighted population of the county.

(b) Out of the grant so allocated, a grant was payable to (ii) and (iii) above, equivalent to 75 per cent of the loss of rates and grants in the standard year, together with one-third of the

formula grant appropriate to its weighted population without the loading of unemployment.

(c) The balance was the grant payable to the County Council.

(d) If the total grant payable to (i), (ii), and (iii) above did not exceed the aggregate loss of rates and grants in the standard year by a sum equivalent to 1s. per head of the actual population, the grant to the County Council was to be so increased.

#### 11. EXAMPLE OF THE FORMULA is given in Appendix B.

12. THE LOCAL GOVERNMENT (ADJUSTMENT OF GRANTS) REGULATIONS, 1938, were issued by the Minister of Health to provide the method for the adjustment of Grants in consequence of alterations of boundaries or combination of authorities.

### HOUSING

Prior to the consolidation under the Housing Act, 1935, the Grants were as follows—

(1) *Under 1919 (Addison) Act*, subsidies expired 1921, but Government Grants are paid for all expenditure of the local authority in excess of 1d. rate.

(2) *Under 1923 (Chamberlain) Act*: Government subsidy of £6 per house per annum for 20 years. Reduced to £4 from 1st October, 1927. Withdrawn as regards houses which were not completed by the 30th September, 1929. (Housing Acts (Revision of Contributions) Order, 1928.)

(3) The 1923 Act also provided a grant of one-half the yearly loss on schemes of re-housing.

(4) *Under 1924 (Wheatley) Act*: Government subsidy of £9 per house per annum for 40 years. Reduced to £7 10s. from 1st October, 1927. In agricultural parishes £12 10s. per house per annum, reduced to £11 from 1st October, 1927, provided that if the rents exceed the appropriate normal rent, local authority provides up to £4 10s. £3 5s. from 1st October, 1927).

(5) *The Housing (Revision of Contributions) Act*, 1929, continued the subsidy in paragraph (4) above for a further period, which lapsed on 7th December, 1932, under the Housing (Financial Provisions) Act, 1933.

(6) *Under 1930 Act*—

1. In place of the Exchequer Grant of one-half the net annual loss on re-housing under the 1923 Act, this Act provided a grant in respect of clearance areas, improvement areas, and the demolition of individual houses, based on the number of persons dispossessed.

2. The grant was payable for forty years on a unit basis of

45s. per person displaced and in respect of whom alternative accommodation had been provided.

3. In agricultural parishes the grant was increased to £2 10s.

4. In any case in which the Ministry certified that it was necessary to re-house on a *Clearance Area* in buildings of more than three storeys or on a site the value of which, as certified by the Minister, exceeded £3,000 per acre, a grant of £3 10s. was payable.

5. The grants payable under the Act of 1930 were superseded by the grants under the *Housing (Financial Provisions) Act, 1938*. (See below.)

6. *The Housing (Financial Provisions) Act, 1933*, withdrew the subsidy under the 1924 Act. The Act provided a new grant of one-half the loss sustained by a local authority under guarantees given to Building Societies under conditions stated.

7. *The Housing Act, 1935*, provided new grants in respect of accommodation to abate overcrowding. Grants in respect of flats on expensive sites were made according to a scale which increased with the cost of the site. For other accommodation a grant was provided of not exceeding £5 payable for twenty years: Agricultural population from £2 to £8 for forty years. Provision was also made for consolidation of subsidies. (Fourth Schedule to the Act; now Sixth Schedule to the 1936 Act).

8. The rate of grants payable under the Acts of 1930 and 1935 were due for revision on the 1st October, 1937, but were continued until the 31st December, 1938.

9. *The Housing (Financial Provisions) Act, 1938*, amalgamated the grants for slum clearance and overcrowding. The grant per person displaced was abandoned. The grant is now £5 10s. per house or flat for 40 years. In urban areas (but not county boroughs), where rents are low, the grant may be increased to £6 10s. For flats on sites exceeding £1,500 per acre the grant is according to a scale which commences at £11 per flat and increases with the cost of the site. In rural areas for the agricultural population, the grant is £10 increased by £2 where rent levels are low. A grant to private builders was also introduced. Not exceeding £10 per house may be paid in respect of houses for the agricultural population where the houses are more economically supplied by private enterprise.

#### EDUCATION

##### (1) *Elementary Education Grants.*

(a) The Elementary Education Grant Regulations set out the basis upon which the grant is payable by the Board of Education to local education authorities for elementary education. The grant is to be calculated as follows—

36s. for each unit of average attendance in public elementary schools maintained by the authority, plus—

- (i) 60 per cent teachers' salaries,
- (ii) 40 per cent travelling or transport expenses,
- (iii) 50 per cent of the net expenditure specified below; and
- (iv) 20 per cent of the remaining net expenditure,  
*less* the produce of a 7d. rate in the council's area.

The net expenditure ranking for 50 per cent grant comprises—

- (1) Maintenance allowances.

(2) Loan charges and any approved revenue expenditure in respect of outlay on educational reorganization or development to which the authority have become committed between 31st August, 1929, and the 5th September, 1931, and between the 1st January, 1936, and the 31st August, 1938. This is extended to 31st December, 1943, in appropriate cases in respect of re-organization—not voluntary senior schools.

- (3) Expenditure on special services, i.e.—

- (i) School medical service.
- (ii) Provision of meals.
- (iii) Special schools for blind, deaf, defective, or epileptic children.
- (iv) Organization of physical training.
- (v) Play centres.
- (vi) Nursery schools.

(b) Provision is made for an additional grant to be made to those authorities who received a highly-rated areas grant for 1929-30. The grant consists of one-half of the sum by which the net expenditure exceeded the amount produced by a rate of a number of pence, fixed by the Board.

(c) *Additional Formula Grant.* A new grant for areas which have a low rateable value and a high proportion of children to population was provided in 1932. The amount by which a 7d. rate falls short of 3d. per unit of average attendance multiplied by the excess of the average attendance per 1,000 of the population over 100, e.g.—

Average attendance . . . . .	8,000
Population . . . . .	50,000
1d. rate . . . . .	£700
Average attendance per 1,000	= 160
less	100
	60
3d. per unit of attendance	£100
£100 × 60	= £6,000
less 7d. rate	4,900
Grant = £1,100	

(2) *For Higher Education* the former grants (which were many and complicated) have now been replaced by the Higher Education (Substantive Grant) Regulations, which bring the total grants up to 50 per cent of approved net expenditure.

*Education Act, 1936.* In order to assist local education authorities to carry out their programmes of development the Board of Education issued Circular 1444 in January, 1936, undertaking to raise the grant in respect of providing accommodation to meet the raising of the school age to 15 from 20 per cent to 50 per cent in respect of contractual commitments entered into from the 1st January, 1936. Grants at the increased rate will also be paid in respect of financial assistance given to voluntary schools under powers conferred under the Act.

*The Sub-Committee on Education* appointed by the Treasury Local Government Committee of Economy has recommended that fees must be charged in all aided Secondary Schools. These should be £15 15s. per annum. If below £10 10s. some increase will be expected.

In Circular 1450 (20th October, 1936), the Board agreed to recognize expenditure on clothes and footwear for physical training for grant purposes. Footwear for everyday use for necessitous children is not authorized, but the Authority should establish the closest liaison with the Unemployment Assistance Board, Public Assistance Committees, and voluntary organizations for this purpose.

*The Physical Training and Recreation Act, 1937,* authorizes the payment of grants by the Board of Education to local authorities or voluntary associations for the provision of facilities for physical training and recreation; and the training and supply of teachers and leaders. Community centres, playing fields, gymnasiums, and baths will be assisted.

*The Cancer Act, 1939,* provides a grant towards the additional expenditure incurred in the treatment of cancer, equivalent to approximately 50 per cent.

The subject is dealt with fully in *Local Government of the United Kingdom* (Pitman).

## CHAPTER XXVII

### BORROWING POWERS OF LOCAL AUTHORITIES

1. MANY works of public utility could not otherwise be undertaken without borrowing, owing to the heavy burden which would fall on the present generation, which is relieved by the system of loans. Except in certain special cases, local authorities have no general authority to raise money by way of loan. Their borrowing powers are limited to the provisions of statute law, which also regulate their loan procedure.

Authorizing Statutes, which confer borrowing powers, are set out in *Local Government of the United Kingdom* (Pitman).

#### 2. PRINCIPLES OF BORROWING—

(1) Local loans must be repaid within the maximum period stated in the local or general Act as sanctioned by the Government Department.

(2) Discretion is left to Government Departments to decide the exact term within the statutory maximum for the redemption of each particular loan.

#### 3. METHODS OF BORROWING by local authorities include—

(1) Half gross proceeds of National Savings Certificates.	
(2) Mortgages.	(7) Utilization of sinking Funds.
(3) Housing bonds.	(8) Bank overdraft.
(4) Debentures.	(9) Bills of exchange.
(5) Annuities.	(10) Municipal bank deposits.
(6) Stock.	(11) Simple deposit notes.

Methods (1) to (8) are authorized by the Local Government Act, 1933. Special powers are required for Methods (9) and (10). Method (11) is not authorized. The use of other Funds in lieu of new loans has been authorized under various statutes, such as Superannuation, Pension, and Housing Funds.

The Stock Regulations of 1891-1921, amended in 1932, have been consolidated in the Local Authorities (Stock) Regulations, 1934.

#### 4. MAXIMUM PERIODS OF BORROWING—

(1) Under Local Government Act, 1933: 60 years; land for small holdings, allotments, and housing, 80 years; tramways, 30 years.

(2) Under local Acts, for municipal trading enterprises, which

may be non-remunerative for some years, further extension may be granted.

5. METHODS OF REPAYMENT prescribed by general law and majority of local Acts of Parliament are—

(1) *Instalment System*, i.e. equal annual instalments of principal together with interest on the sum remaining unpaid.

(2) *Terminal Annuity System*, i.e. equal annual instalments of principal and interest combined.

(3) *Sinking Fund System*.

(a) Accumulating Funds: Setting aside an annual sum which with compound interest, will provide the required amount. This is the method prescribed under Ministry of Health Consent Orders.

(b) Non-accumulating Funds: Setting aside equal annual sums during the period sufficient apart from interest, to provide the required amount. This method simplifies accounting procedure, and, although more burdensome in the earlier years, is ultimately cheaper than (a).

(4) Partly by one of the above methods and partly by another or others of them as provided by the Local Government Act, 1933, Sec. 212.

6. CENTRAL SANCTIONING AUTHORITY—

(1) Minister of Health, generally;

(2) Minister of Transport for tramways and light railways;

(3) Electricity Commissioners for electricity works; and

(4) Minister of Agriculture and Fisheries for land drainage.

In certain rare instances, borrowing without sanction is authorized, e.g. animal diseases; financial adjustments; working balances; sewage land and plant. The Public Works Loan Board lend money to local authorities for certain authorized purposes.

7. STATUTORY PROVISIONS are given in detail in *Local Government of the United Kingdom* (Pitman).

8. THE COMMITTEE ON LOCAL EXPENDITURE ("Ray" Committee) reported in 1932 in favour of shorter loan periods, and suggested that Parliament might again review the length of those periods.

## CHAPTER XXVIII

### VALUATION AND RATING

THE OVERSEERS OF THE POOR were the persons or authorities responsible for the making, collection, and recovery of the Poor Rate, prior to the 1st April, 1927, when the Rating and Valuation Act, 1925, came into operation. The office dated from 1551, and became a permanent feature of local government in 1601. In 1834 the duties of the overseers with reference to the administration of poor relief were (except in cases of emergency) transferred to the Board of Guardians, and subsequently to the County and County Borough Councils in 1929.

#### THE RATING AND VALUATION ACT, 1925

##### INTRODUCTION

###### 1. THE OBJECTS OF THE ACT are—

- (1) To simplify and amend the law of making and collecting rates.
- (2) To promote uniformity in valuation.
- (3) To amend the law respecting the valuation of machinery.

2. ABOLITION OF OVERSEERS. The offices of overseer and assistant overseer were abolished as from the 31st March, 1927.

#### PART I. RATING

1. RATING AUTHORITIES. The duty of making valuations and levying and collecting rates within their respective areas devolves upon the councils of county boroughs, boroughs, urban districts, and rural districts. The areas under these authorities are known for rating purposes as "Rating Areas."

2. RATING COMMITTEES. The councils of these areas have power to appoint committees for the purpose of exercising the majority of their powers and duties under this Act. In rural districts, parishes also appoint two representatives on rating committees with limited duties. The rating authorities are responsible for making valuations, collecting all the principal rates in their areas, and paying over any sums demanded by precepting authorities. Rating authorities have power to correct clerical errors, omissions, etc.

3. PROVISIONS AS TO PRECEPTS. All other local authorities who derive income from the levying of rates, precept upon one or more of the appropriate rating authorities for their requirements. In the case of the county council the precept must be for a certain

rate in the *f* calculated according to estimates of the produce of the General Rate prepared by the rating authority. Other precepting authorities may adopt this method instead of a lump sum precept.

4. **GENERAL RATE.** "Rate" means a rate the proceeds of which are applicable to local purposes of a public nature and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is, or can be, ultimately raised out of a rate as before defined. (Rating and Valuation Act, 1925, Section 68 (i).)

The consolidation of rates was effected as far as possible by the Act, and the new consolidated rate is known as the "General Rate" which is now levied to cover all expenses of local authorities, except Special Expenses in Rural Areas. Provision has been made for dealing with such rates as cannot be consolidated. Drainage rates under the Land Drainage Act, 1930, are an exception.

5. **REMISSION OF RATES.** The rating authority may remit payment of the general and special rates, on the ground of poverty. If they do not do this, and apply to the Justices for a warrant of distress, if the Justices refuse a warrant of commitment in default of distress, the rating authority may renew their application at a later date. (Sec. 2.)

6. **RATE MADE RETROSPECTIVE.** The gap, if any, between the end of one rate and the making of the next, is abolished, and the ratepayer pays his proper proportion of the rate, according to the number of days in the rate period that he has been in occupation. (Sec. 4.)

7. **PUBLICATION OF RATE.** The Act allows the rates to be published by—

- (i) Affixing notices at or near the principal door of every church and chapel of the Church of England; or
- (ii) In some public and conspicuous place or situation in the parish, or
- (iii) Alternatively, by publication in one or more newspapers circulating in the area.

8. **LEVY OF GENERAL RATE.** Rating authorities concerned are required to levy a rate on occupiers at a uniform amount in the pound over the whole of the area liable to contribute. (Sec. 2.)

Differential rating under extension of boundaries is an exception.

9. COMPOUNDING, i.e. RATING, AND COLLECTION OF RATES FROM OWNERS.

(a) *Compulsory.* Under Section 11 (1) a rating authority may, by resolution, direct that owners instead of occupiers shall be rated in respect of all rateable hereditaments in their area the rateable value of which does not exceed £13 or such higher limit as may at the passing of this Act have been in force in any area for the purpose of the Poor Rate.

The rental interval fixed in the resolution was not less than quarterly, but by the Local Government Act, 1929, Section 71, it is optional on the local authority to define the properties to which Section 11 (1) is to apply, by reference to the intervals at which the rent is payable or collected.

If an owner of property, coming within this category, pays the rates within the first half of the rate period or instalment period, or before such later date as may be specified in the rating authority's resolution, he is entitled to an allowance of 10 per cent of the amount payable.

Under the Rating and Valuation Act, 1928, Sec. 3, the allowance may be temporarily increased to 15 per cent at the discretion of the local authority for the period of first Valuation List, i.e. 5 years. This was continued for an extended period of 5 years by the Rating and Valuation (No. 1) Act, 1932; and a further five years by the Rating and Valuation Act, 1937.

(b) *Voluntary.* Under Section 11 (2) the rating authority may enter into an agreement in writing with the owner of any hereditament, the rent of which becomes payable or is collected at intervals shorter than quarterly, that the owner shall do one of the following three things—

- (i) Pay the rates chargeable in respect thereof, whether it is occupied or not, and receive an allowance not exceeding 15 per cent.
- (ii) Pay the rates chargeable in respect thereof, so long as it is occupied, and receive an allowance not exceeding 7½ per cent.
- (iii) On behalf of the authority, collect the rates due from the occupier thereof, and receive an allowance not exceeding 5 per cent.

10. RECOVERY OF RATES FROM OWNER. In any of the above cases where an owner is rated, or undertakes to pay or collect rates, power is given to the rating authority to recover rates from him in the same way as from an occupier, and further, when the rates are collected by an agent of his, either from him or that agent.

11. RETURNS FROM OWNERS. Every owner who is compulsorily rated, or who agrees to be rated or collect rates, shall

from time to time on demand, give to the rating authority such of the following information as the authority may require—

- (1) List of the occupiers of such hereditaments.
- (2) Particulars of the periods for which such hereditaments have been unoccupied.
- (3) Particulars of the amounts which he has failed to collect from the occupiers.

If an owner refuses or neglects to give this information, or knowingly gives particulars which are untrue in any material respect, he is liable to a penalty not exceeding £5, and in the case of refusal or neglect, to a further penalty not exceeding £1 for each day during which the offence continues after he has been convicted.

Owners rated under this section, or who enter into agreements under it, have the same rights of objection, appeal, etc., as the occupier; but the occupier still retains his rights in this respect.

The provisions of any existing local Act, with respect to the rating of owners, may be preserved instead of, or in addition to, the provisions of this Act if the rating authority so resolved before the date of the first new valuation.

A rating authority has power, where the rates are in arrear, to collect the same, up to the amount of rent due, from tenants and lodgers of the person who is in arrears, until such arrears are paid off. (Sec. 15.)

**12. DISCOUNT.** The rating authority may allow a discount not exceeding  $2\frac{1}{2}$  per cent in respect of a General Rate, when it is paid before a certain date. This privilege does not apply to owners rated under Section 11 above.

## PART II. VALUATION

**1. ASSESSMENT AREAS.** For the purpose of valuation the country is divided into "Assessment Areas," as follows—

(a) Each county borough, unless the council thereof decided that the area should be included with other rating areas in its neighbourhood, is an assessment area.

(b) Outside county boroughs: Each county council, after consultation with various parties interested, may divide the county into one or more areas, each consisting of one or more rating areas;

or they may submit a joint scheme with a neighbouring county or county borough.

These groups of rating areas, after being approved by the Minister, are known as "Assessment Areas."

**2. ASSESSMENT COMMITTEES.** Each assessment area has an assessment committee consisting of persons appointed by the

county council and each rating authority in the area under a scheme approved by the Minister of Health. Any county borough may be a separate assessment area, in which case the committee will consist of such members as the county borough council may decide, but one-third must not be members of the council.

No person can be a member of both the "Assessment Committee" and a "Rating Committee" in an assessment area unless the whole Council is the Rating Committee.

Assessment committees are charged with the duty of hearing and determining all proposals and objections to valuations made within their assessment areas and of approving the valuation lists.

**3. COUNTY VALUATION COMMITTEE.** Each county council appoints a "County Valuation Committee" consisting of—

- (1) members of the county council, and
- (2) a representative of each assessment committee any part of whose assessment area is comprised in the county.

The duty of these county valuation committees is to promote uniformity within the county, by—

- (1) conferring with other county valuation committees and assessment committees, and
- (2) making recommendations to rating authorities and assessment committees, and
- (3) if necessary, lodging and contesting proposals, objections and appeals, and
- (4) making valuations.

**4. CENTRAL VALUATION COMMITTEE.** To promote uniformity and remove inequalities in the system of valuation throughout the whole country—

(1) A Central Valuation Committee is appointed by the Minister of Health consisting of members of rating authorities, assessment committees, county valuation committees, and of certain other bodies.

(2) Every assessment committee in the country has to report to it annually, and it must also report annually to the Minister of Health.

(3) It carries out its duties by conferring with such other persons or bodies as it thinks desirable, and making representations to the Minister of Health.

**5. APPOINTMENT OF VALUER.** Any rating authority, assessment committee, or county valuation committee may employ a valuer, who is empowered (under Sections 38 and 55) to enter on, survey, and value any hereditament, and the penalty for wilfully delaying or obstructing such valuer is a maximum of £5.

**6. VALUATION LIST** is "a list of all the hereditaments in the area."

THE FORM OF THE VALUATION LIST. The Minister of Health issued Draft Rules dated 5th February, 1932, under Section 58 of the Act for prescribing the form of valuation list to be used outside London for the purposes of the Rating and Valuation Acts, 1925 to 1930, after the period of the first new valuation list made under the Act of 1925, the form of the declaration and the certificate to be appended to such list, and the particulars with respect to totals of values to be inserted in such list and to be recorded. The forms are given on pages 243, 244, and 245.

7. PREPARATION OF VALUATION LIST. The principle of a re-valuation every five years was introduced for the first time in the provinces, though it has been in operation in London since the passing of the Valuation (Metropolis) Act, 1869.

The Minister may, however, on the application of the assessment committee, extend or reduce these intervals by six months; and, on the application of a rating authority, with the concurrence of the assessment committee, divide a rating area into parts and fix different dates for the coming into force of the next valuation list in respect of each of such parts.

The first new valuation list under the Act came into force on either 1st April, 1928, or 1st April, 1929, and the next valuation list on 1st April, 1932, 1933, or 1934. The duty of deciding in which of these years the lists came into force in each rating area rested with the assessment committee, after consulting with the rating authority concerned. The third and subsequent valuation lists must be made at intervals of five years.

*The Rating and Valuation (Postponement of Valuation) Act, 1938,* postpones the third quinquennial valuation for two years.

8. PRINCIPLES OF VALUATION. Certain principles of valuation have grown up as a result of common law and judicial decisions and these may be briefly considered.

(1) *Rental Basis.* In the case of dwelling houses, business premises, and premises let at a rack rent (i.e. rent based on its utmost value), or on short leases, the rent is usually taken as the basis for valuation. The actual rental paid, however, is not necessarily the standard of value. It is the rent which a hypothetical tenant would pay.

(2) *Comparison Basis.* Where there is no rent or the particular hereditament is not let at a rack rent, such as schools, colleges, halls, hospitals and clubs, the valuation is often fixed by comparison with similar premises.

(3) *Contractor's Method* consists of adding together a percentage on the value of the site, and a percentage on the value of the buildings and applying a commercial rate of interest to the capital value found in this way.

(4) *Revenue Basis.* In certain other properties which are seldom or never let on a rental basis (viz. canals, tramways, docks, waterworks, gasworks, electric supply undertakings, etc.), the "contractor's rent test" principle is only partially applied, e.g. to the buildings as distinguished from the line, pipe, etc. In these cases the main valuation is made upon another principle. It is noteworthy that these undertakings have to some extent the character of monopolies. The rent, therefore, which a tenant might give cannot be determined merely by taking a percentage on the cost of construction. In such cases the Courts have approved of a method of valuation starting from the receipts earned, and arriving at the annual value of the rateable portion of the undertaking by a series of deductions. Many such properties extend into several parishes and counties. The valuations in such counties have to be made on the basis of what a hypothetical tenant might give for the portion of the undertaking in each parish.

(5) *Output Method.* Where some other form of payment than rent is made, e.g. royalty payments, the valuation is fixed by multiplying output by a rate of royalty per unit of output. This method is adopted for mines.

(6) *Accommodation Unit Basis*, e.g. per school place, per bed in hospital, per seat in theatre.

(7) *Zoning Basis.* A method whereby a scale of value based on one hereditament is used to apply to other similar hereditaments, adjustments being made for situation, a different unit value applying to the zones into which the hereditament is divided.

(8) *Railways.* Cumulo method. (See page 246.)

THE RATING AND VALUATION (APPORTIONMENT) ACT, 1928, provided for the distinguishing in the valuation list and the apportionment of the net annual values of the classes of hereditaments to be affected by the relief scheme. Valuation lists which came into force on 1st October, 1929, had to distinguish—

(a) Agricultural hereditaments being agricultural land or buildings.

(b) Industrial hereditaments being a mine or mineral railway or a factory or workshop, but does not include what is primarily used as a dwelling-house, a retail shop, a distributive wholesale business, for storage or for the purpose of a public utility undertaking.

(c) Freight transport hereditaments means hereditaments occupied and used wholly or partly for railway transport purposes or canal transport purposes or for dock purposes.

Agricultural properties were only included in the first Special List, and in future lists no agricultural properties will be included,

but (b) and (c) above are shown in separate parts of the Valuation List. (Local Government Act, 1929.)

The forms for new Valuation List for this purpose are prescribed under Statutory Rules and Orders, 1932, No. 395.

1. **DEFINITIONS.** In the preparation of the list certain terms are defined, viz.—

(a) *The Gross Value* has taken the place of "Gross Estimated Rental," namely, "the rent at which the hereditament might reasonably be expected to let from year to year, if the tenant undertook to pay all usual tenant's rates and taxes, and if the landlord undertook to bear the cost of repairs, insurance and other expenses, if any, necessary to maintain the hereditament in a state to command that rent."

(b) *The Net Annual Value* has taken the place of the former "Rateable Value." It is defined as "The rent at which the hereditament might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes, and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent."

2. *Ascertainment of Rateable Value.* In the case of houses, offices, shops, agricultural land, etc., as shown in Schedule II of the Act, the gross value is reduced by the following fixed deductions as allowances for repairs, insurance, etc.

#### DEDUCTIONS FROM GROSS VALUE

CLASS OF HEREDITAMENTS	AMOUNT OF DEDUCTION
(1) Houses and Buildings without land, other than gardens, where Gross Value does not exceed £10	40%
(2) Houses and Buildings, without land, other than gardens, where Gross Value exceeds £10 but does not exceed £20	£4 or 33½% whichever is the greater.
(3) Houses and Buildings, without land, other than gardens, where Gross Value exceeds £20 but does not exceed £40	£7 or 25% whichever is the greater.
(4) Houses and Buildings without land, other than gardens, where Gross Value exceeds £40 but does not exceed £100	£10 or 20% whichever is the greater.
(5) Houses and Buildings without land, other than gardens, where the Gross Value exceeds £100	£20 + 16½% of excess above £100.
(6) Land (other than agricultural land) with buildings valued together as one hereditament	10%
(7) Land (other than agricultural land) without buildings	5%

The expression "houses and buildings" does not include mills, manufactories, or premises of a similar character used wholly or mainly for industrial purposes, or hereditaments valued as part of any railway, dock, canal, gas, water, electricity, or other public utility undertaking.

### THE RATING AND VALUATION ACT, 1928

Section 2 (3) provides that for the purposes of the making of the first new valuation list and of the revision and amendment of those lists (but not for the purposes of the making of any subsequent new valuation list) the amendments following shall be substituted for Classes (1) and (2) above—

#### FIRST SCHEDULE: PART II

CLASS OF HEREDITAMENTS	AMOUNT OF DEDUCTIONS
(1) Houses and Buildings without land, other than gardens where the Gross Value does not exceed £15.	An amount equal to 40 per cent of the Gross Value.
(2) Houses and Buildings without land other than gardens where the Gross Value exceeds £15 but does not exceed £20.	£6, together with an amount equal to 30 per cent of the amount by which the gross value exceeds £15.

The Rating and Valuation Act, 1932, continued the above amendment for the second new Valuation Lists; and the Rating and Valuation Act, 1937, has continued it for the third new Lists.

In the case of mills, manufactories or premises of a similar character used wholly or mainly for industrial purposes or hereditaments, valued as part of any railway, dock, canal, gas, water, electricity, or other public utility undertaking, or any other hereditament not included in those on Schedule II for which fixed deductions are to be made, no gross value is necessary, and the net annual value is to be calculated direct. The definition is approximately the same as "rateable value," i.e. the rent at which the property might reasonably be expected to let from year to year, the tenant paying all tenant's rates and taxes and doing all repairs and insurance, etc.

The rateable value is the actual figure on which rates are paid and will, in many cases, be the same as the net annual value.

3. *Agricultural Land, etc.* Agricultural land, farm buildings and market gardeners' greenhouses and buildings (other than dwelling-houses) were totally derated as from 1st April, 1929, in accordance with the Local Government Act, 1929, and the Agricultural Rates Act, 1929. In *urban areas* only, as regards any land used as a railway, canal, towing path, or land covered with water, there are deductions from net annual value to arrive at rateable value, as may correspond to the relief previously given to such hereditament in each area. In *rural areas* these latter hereditaments in

respect of special rates obtain equivalent relief by paying on one-fourth part only of their rateable value.

In all cases of property, except those just referred to, the net annual value and rateable value are the same, and the rateable value or net annual value only will be entered in the list.

All rateable values are calculated to the nearest pound, and therefore no shillings or pence are shown as the rateable value on demand notes.

#### 8. MAKING A VALUATION LIST.

1. *Returns from Occupiers.* The rating authority may serve a notice on the occupier, owner, or lessee of every hereditament in the rating area or any one or more of them, requiring him or them to make a return within 21 days, containing such particulars as may be reasonably required for the purpose of carrying out the Act, such as the rent paid, particulars of any lease or sub-letting, etc., and the rating authority may require such a return to be made at any time. The penalty for failing to make such a return, without reasonable excuse, is a fine not exceeding £20 and £2 a day (after conviction) for the time during which the offence continues, and for making a false return not exceeding £50.

*The Rating and Valuation (No. 2) Act, 1932*, amends Sec. 40 (1) of the Rating and Valuation Act, 1925, by making permissive instead of compulsory the serving of notices on the occupiers, owners, or lessees of every hereditament in the area whenever a new valuation list is made.

2. *Preparation of Draft List.* Having received these returns duly filled in, the rating authority, or a surveyor on their behalf, makes a valuation of all the hereditaments in its area and copies the valuations into a list known as the "Draft List," which must be signed by the clerk, and a copy sent to the assessment committee. The copy signed by the clerk must be deposited at the offices of the rating authority, notice must be given to the county valuation committee and published for the information of the public. This draft list will be open to inspection by the public for 21 days from the date the notice is published.

3. *Notices to Occupiers.* (a) *By Rating Authority* of first assessment. (b) *By Assessment Committee*: (i) of objection by other than owner of increase; (ii) of meeting to hear above only; (iii) of insertion or alteration otherwise than on objection; (iv) of objection on above; (v) of decision on objection other than owner for increase. The rating authority must, within seven days of the deposit, send to the occupier a notice stating the gross, net annual, and rateable values of hereditaments not previously assessed.

4. *Objections.* Any person and any local authority (including

county councils and parish councils) aggrieved by the contents of the draft list may lodge an objection with the assessment committee at any time within 25 days from the date of deposit of the draft list. Such notice must specify the grounds of objection, and within 3 days of receiving it the assessment committee must send a copy of it to the rating authority and the occupier of the hereditament, but if either of these is the objector it is not necessary to send one to such objector.

5. *Revision of Draft List.* The assessment committee must give at least 14 days notice of any meeting for the hearing of objections to the rating authority, the occupier, and the objector.

The objector, the occupier, the rating authority, and the county valuation committee are entitled, personally or by any agent, to appear, and be heard, and to examine and call any witnesses.

No person, being either a party to the objection, or a witness in the case, or a valuer employed by the assessment committee, shall be present whilst the committee are considering their decision.

The assessment committee also have powers to alter the draft list on their own initiative without any objection, but should they in so doing raise an assessment, they must serve a notice on the occupier informing him of such alteration, and he may lodge an objection within 14 days of the service of such notice.

6. *Final Approval of List.* The assessment committee shall, not later than the 31st of January if the list is to come into force on the 1st of April, or not later than 31st July if the list is to come into force on the 1st of October, approve and sign the list, and send it to the rating authority, where it remains and becomes the "Valuation List" for the rating area.

The list is conclusive evidence for local rates, annual values required under Licensing Acts, qualification of manager of schools, or asylum district, or jurors. The value of every hereditament in the rating area must be included in the list.

9. **PROPOSALS FOR AMENDMENT OF LIST.** It is not necessary that the assessment committee should have heard and determined all objections to the draft list before they sign and approve it, but outstanding objections automatically become "Proposals."

The right of a ratepayer to object to an assessment is not confined to the draft list, for he still has the right, at any time, to object to any matter by which he is aggrieved in the valuation list for the time being in force. In this latter case it is not called an objection, as it is in the case of the draft list, but a "proposal" for the amendment of the list.

Any aggrieved person, county valuation committee, or other local authority may make a proposal, but it must be served on the *rating authority* and, not like an objection, on the *assessment*

committee; it must be made in writing and specify the grounds on which it is supported.

1. *Copy to Occupier.* Within seven days of the date on which a proposal is made by or served on them, the rating authority must send a copy to the occupier (unless the occupier is the proposer); or, where there is no occupier, to the owner of the hereditament to which it relates, and shall also send to him at least 21 days beforehand notice of the date on which the proposal will be considered by the assessment committee. The rating authority must, from time to time, and as required by the assessment committee, send to the assessment committee returns and other particulars with respect to all proposals and any notices of objection thereto given to the rating authority.

2. *Objections.* Any person to whom a copy of a proposal as above has been sent may, not less than seven days before the meeting of the assessment committee, give notice in writing to the rating authority that he objects to the proposal and stating the grounds of his objection. Unless he gives such notice he is not entitled to be heard at the meeting. The rating authority shall, forthwith, send to the person making the proposal a copy of such objection, and if they (the rating authority) themselves propose to object, notice of their intention and their grounds of objection. The maker of the proposal will, therefore, know beforehand if there is to be any opposition.

A county valuation committee may not appear in opposition to any objection or proposal made by an occupier without giving him notice at least three days before the hearing, or in opposition to an appeal by an occupier without still longer notice.

3. *Procedure.* The same procedure governs the hearing of a proposal before the assessment committee as that given above for the hearing of an objection to any matter in the draft list.

Any decision of the assessment committee on a proposal is retrospective, and operates from the commencement of the rate period during which the proposal was made.

The only exceptions to this are where the proposal is for—

- (a) An amendment for the inclusion in the list of a newly-erected or newly-constructed hereditament; or
- (b) An altered hereditament which has been out of occupation on account of structural alterations; or
- (c) Where the value has been altered by the making of structural alterations or by damage from fire or other physical cause, or
- (d) Where tithe, tithe commutation rent charge or other payment in lieu of tithe is extinguished in whole or in part.
- (e) Where de-rating takes place.

In such cases, the alteration dates from when the new or altered hereditament comes into occupation, or as from the happening

of the event giving rise to the alteration in value, or as from the date when the extinguishment takes effect, as the case may be.

10. RETURNS. An assessment committee may, at any time, call for the same returns giving particulars of any hereditament within their area as a rating authority may, and subject to the same penalties.

11. APPEAL TO COURT OF QUARTER SESSIONS. Any person who is aggrieved by the decision of an assessment committee after the hearing by them of either an objection to the draft list or a proposal for the amendment of a current list, may appeal against the decision to the Court of Quarter Sessions for the county or place where the hereditament to which the objection or proposal related is situated.

In the case of an objection to the draft list, the right of appeal is definitely limited to persons who appeared before the assessment committee on the hearing of the objection.

In the case of an appeal against the decision on an objection to values in the draft list, notice of appeal must be lodged before the expiration of 21 days after the date on which the valuation list is finally approved. In the case of an appeal against the decision on a proposal to amend the current valuation list, notice must be lodged within 21 days after the date of the decision of the assessment committee.

The notice of appeal must be given to the Clerk of the Court to which the appeal is made.

A copy must also be served by the appellant within the above 21 days on the assessment committee and on each of the following persons, not being the appellants, namely, the rating authority and the occupier of the hereditament concerned.

The notice of appeal must specify the grounds of appeal.

In any case where there is more than one respondent to an appeal, the appellant cannot be made to pay the costs of more than one of them.

Where the appellant is the county valuation committee or a local authority, the occupier may at any time before the hearing, instead of appearing as a respondent, give notice to the Court that he desires to be called as a witness. He must then be called as a witness and can put his views before the Court without incurring any costs himself, and without the danger of rendering himself liable, if the appeal succeeds, to pay the costs of the appellants.

In a borough having a separate Court of Quarter Sessions, the Recorder will constitute the Court. Outside such boroughs, the Court will consist of a committee of Quarter Sessions of not less than five nor more than seven members, the chairman to be appointed with a view to his legal qualification.

This committee may hold local sittings at any convenient time; and, if the rateable value appealed against does not exceed £100, solicitors may appear before them instead of barristers.

A Recorder can also sit at any convenient time to hear rating cases, but unless the rules of his court allow it, a solicitor may not appear before him.

If any party to an appeal makes application to the Court at any time before evidence as to value has been brought forward, the Court may appoint a proper person to value the hereditament concerned and the Court may, or if any party to the appeal asks for it must, call the person so appointed as a witness, and he may be cross-examined by any of the parties.

12. APPEAL TO HIGH COURT. Any party to the appeal may, if dissatisfied with the decision of the Court of Quarter Sessions on a point of law, make an application within 21 days to have a case stated for the opinion of the High Court on the point of law; and, with the appropriate approval, from thence to the Court of Appeal, and the House of Lords, whose decision is final.

In the case of railways, appeal is direct to the Railway and Canal Commissioners, and thence to the House of Lords.

13. ARBITRATION. Even if notice of appeal has been given there are alternatives to the case being heard at Quarter Sessions.

If the parties agree, they may refer the matter in dispute, or any part of it, to arbitration, and the arbitrators' award will be final on questions of fact; and, also, if the parties so agree, on questions of law; or, alternatively, the parties may agree to appoint a valuer to make a binding valuation of any hereditament or any part thereof.

If an occupier or ratepayer wishes to make an objection, proposal, or appeal in respect of a number of hereditaments in the same valuation list, of which he is the occupier or ratepayer, he may include them all in the same objection, proposal, or appeal, and need not make separate ones in respect of each of such hereditaments.

14. PAYMENT PENDING APPEAL. If an objection has been lodged, or the assessment is being appealed against, and the appeal has not been decided, the ratepayer will be liable to pay the rate in full; and, if, when the appeal is decided, it is found that he has paid too much, the balance will be refunded; if he has paid too little, the balance will be collected as arrears of rates.

#### MACHINERY AND PLANT

1. MACHINERY WHICH IS RATEABLE. The Act makes the following classes of machinery definitely rateable—

(1) Machinery and plant used mainly or exclusively for the

generation, storage, primary transformation or main transmission of power.

(2) Plant and machinery mainly or exclusively used for heating, cooling, ventilating, lighting, draining, supplying water to or protecting from fire the land or buildings, but not such plant used mainly or exclusively for trade purposes.

(3) Lifts and elevators mainly or usually used for passengers.

(4) Railway and tramway lines and tracks.

(5) Such part of any plant or any combination of plant and machinery, including gasholders, blast furnaces, coke ovens, tar distilling plants, cupolas, water towers with tanks, as is, or is in the nature of, a building or structure.

2. COMMITTEE. A Committee was appointed to make a list of all plant and machinery which in their opinion were rateable under the Act. The List was compiled (see S.R.O., 1927, No. 480) and took the place of the Third Schedule to the Act, and is to be revised at intervals.

3. PANEL OF REFEREES. A panel of referees has been appointed, who shall, with the consent of the assessment committee or the court and with the agreement of all the parties to the dispute, decide any difficult cases under this section.

4. Under the Rating and Valuation Act, 1928, the derating of machinery is now made applicable to London.

#### GENERAL

1. NOTICES, etc. Notices, demand notes, etc., required by this Act may be—

(a) Sent or served by delivering them at, or posting them to, the usual or last known place of abode;

(b) By delivering them to some person on the premises to which they relate; or

(c) If there is no such person, by fixing them on some conspicuous part of the premises; or

(d) Where the premises concerned are a place of business, by leaving them at or forwarding them by post addressed to the person concerned at such place of business. Where such notices, etc., have to be served on the occupier or owner, it is sufficient to address it to the "occupier" or "owner" without any name.

Notices, etc., served on a local authority may be delivered by hand at their offices, or sent thereto by post addressed to the local authority or their clerk.

2. INSPECTION OF DOCUMENTS. Any ratepayer or his agent may inspect and take copies of or extracts from any rate book, draft list, valuation list, notice of objection, proposal for amendment, notice of appeal, record of totals, or a valuation made by a

valuer appointed by an assessment committee, and the minutes of the proceedings of any assessment committee or rating authority, without payment. Where the document is more than ten years old, a charge may be made. The returns sent in by ratepayers giving particulars of their properties are not open to inspection. This right applies not only to the area in which the ratepayer is domiciled or is a ratepayer, but anywhere in the country.

3. EXTENT OF ACT. This Act does not extend to Scotland, Northern Ireland, or the Administrative County of London.

4. LONDON. Under the Rating and Valuation (Apportionment) Act, 1928, certain provisions of the 1925 Act concerning contents of Valuation Lists, record of totals, correction of errors, power to employ Valuers and other features are made applicable to London.

The Rating and Valuation Act, 1928, makes applicable to London the revised deductions from Gross Value to Rateable Value for properties of the five classes specified in the First Schedule; these being in substitution for the allowances prescribed under the Valuation (Metropolis) Act, 1869. These deductions operated for the lists for 6th April, 1931, and their revision and alteration.

5. THE RATING AND VALUATION ACT, 1932, extends the duration of certain temporary provisions contained in the Rating and Valuation Act, 1928. The amended deductions from gross to rateable authorized by the 1928 Act for the quinquennial valuation in London (i.e. 6th April, 1936) and the "first" general revaluation in the rest of the country were extended for the next quinquennial valuation in London (i.e. 6th April, 1936) and the "second" general revaluation in the rest of the country (i.e. 1st April, 1934).

The Act also extended for a similar period the amendment in the 1928 Act relating to the allowance to be made to owners when rated instead of occupiers under Sec. 11 of the 1925 Act.

The Rating and Valuation Act, 1937, has extended these temporary provisions for the third new Valuation List.

In future the Acts relating to matters of assessment will be known as the Rating and Valuation Acts, 1925 to 1938.

6. THE GENERAL RATE VALUATION is the basis for all rates (except Drainage Rates) since the date of the first new valuation.

OCCUPATION must be "beneficial." What constitutes beneficial occupation is a question of fact as decided by the Courts.

LEVYING THE RATE. The rate is levied upon—

(a) Under Poor Relief Act, 1601—every inhabitant, parson, vicar and other, and every occupier of non-agricultural lands, houses, or coal mines.

(b) Under Rating Act, 1874—occupiers of mines of every description not in the 1601 Act; land not subject to rights of

common ; sporting rights when severed from occupation of land.

(c) Under Advertising Stations (Rating) Act, 1889—occupiers or owners of land used for advertisement hoardings.

(1) Rate is levied upon occupiers, except—

(a) Tithe Rent Charges. The Tithe Act, 1936, abolished Tithe rent charges as from 1st October, 1936. Consequently, the provisions of the Tithe Rent Charge (Rates) Act, 1899, and the Tithe Act, 1925, no longer operate with respect to those hereditaments.

(b) Sporting rights severed from occupation of land.

(c) Owners' compounding.

(d) Advertising stations where no occupier of the land.

(2) Certain properties are subject to differential rating.

#### 7. EXEMPTIONS FROM RATING—

(a) Property occupied by the Crown or used for the purposes of the Crown, e.g. Government Buildings, Post Offices, Police Stations, etc., but in most cases contributions are made in lieu of rates.

(b) Properties covered by the Scientific Societies Act, 1843.

(c) Sunday Schools and Ragged Schools Act, 1869 (optional).

(d) Registered places of worship.

(e) Lighthouses, buoys and beacons as defined in Merchant Shipping Act, 1894.

(f) Agricultural land and buildings under Local Government Act, 1929, Sec. 67.

(g) Ambassador's residence (Diplomatic Privileges Act, 1708).

(h) Polling booths.

(i) Non-provided Schools under Education Act, 1921.

(j) Land struck with sterility, e.g. highways.

(k) Personal property. (Exemption Act, 1840.)

(l) Machinery not forming part of the hereditament. (Rating and Valuation Act, 1925.)

(m) Tithes Act, 1936, exempts tithe rent charges issuing out of land.

(n) The Rating and Valuation (Air Raid Works) Act, 1938, provides for the exemption of alterations or improvements made for the protection from air raids and hereditaments used solely for that purpose.

8. STATEMENT OF RATES ACT, 1919, provides that from and after the first day of January, 1920, every demand or receipt for rent, as may be payable under any enactment whatever, by the owner instead of the occupier, must state the amount of such rates. Such statement shall agree with the last demands received by the owner from the rating authorities. The Act

### *Schedule*

FORM A

## FORM OF VALIDATION LIST

### *Part I.—Hereditaments other than Industrial and Freight Transport Hereditaments*

Part III.—Industrial Hereditaments

Part III.—Freight Transport Hereditaments

does not apply to weekly lettings at inclusive rentals in any market established under or controlled by statute.

#### 9. EXPENSES.

(a) Rating Authority expenses are met out of the General Rate;

(b) Assessment Committee expenses are apportioned among the Rating Authorities in proportion to rateable values.

10. AUDIT OF ACCOUNTS. By the District Auditor of the Ministry of Health, under Rate Accounts Orders, 1926.

### RAILWAYS (VALUATION FOR RATING) ACT, 1930

The assessment of railway hereditaments will in future be determined by the Railway Assessment Authority (a body constituted under Section 2 of the Act), and not by the Rating Authorities and Assessment Committees.

The Act requires that railways shall be valued *in cumulo*, and subsequently apportioned, and defines "railway undertaking" to embrace canals, docks, harbours, and other subsidiary or ancillary undertakings. In making their valuation, the Authority is not bound to give effect to any question or practice previously obtaining, but to have regard to all relevant circumstances and all material considerations with a view to securing a fair and just division of net receipts as between landlord and tenant. Appeals are to the Railway and Canal Commissioners, and thence to the House of Lords. Expenses are to be defrayed by County and County Borough Councils. The Act does not extend to Northern Ireland.

The "apportionment scheme" prepared by the Railway Assessment Authority under the above Act was confirmed by the Minister on the 20th April, 1932.

*Southern Railway Appeals.* (1) House of Lords; 24th January, 1936 (A.C. 266).

The adoption of the profit basis by the Authority was justified and the use of a 15 per cent deduction for tenant's return on investment was permissible.

(2) House of Lords; 20th May, 1936. (A.C. 518.)

Premises "let out" by Railway Companies, although only available through station gates are not "railway hereditaments."

## CHAPTER XXIX

### FINANCIAL ADMINISTRATION AND AUDIT

#### I. FINANCIAL CONTROL

1. **FINANCE COMMITTEE.** The power under Section 85 (3) of the Local Government Act, 1933, which authorized local authorities to appoint persons who are not members of the local authority on committees does not extend to a committee for regulating and controlling the finance of the authority or their area.

(1) Every County Council is required—

(a) To appoint a Finance Committee. (Local Government Act, 1933, Sec. 86 (1).)

(b) To have submitted to them at the beginning of every local financial year an estimate of their receipts and expenditure. (*Ibid.*, Sec. 182 (1).)

(c) To estimate half-yearly the amount to be raised by means of precepts. (*Ibid.*, Sec. 182 (2).)

(2) Metropolitan Borough Councils are required to appoint a Finance Committee. (London Government Act, 1899, Sec. 8 (3).)

(3) Although there is no statutory duty placed upon any other council to appoint a Finance Committee, such a committee is usually appointed in practice, except in the case of the smaller authorities.

(4) The main function of the Finance Committee in regard to expenditure is to keep a constant watch on all the services to see that no money is voted by the Council without full knowledge of its necessity and of its financial consequences, and that money so voted is applied to the approved purposes and is spent in accordance with the directions of the Council.

2. **RATE ESTIMATES** are made a statutory duty of a rating authority by the Rating and Valuation Act, 1925, Sec. 12. Except in the case of a County Council there is no uniform period prescribed for a rate. There is much diversity of opinion whether there should be a yearly or a half-yearly estimate.

3. **SUPPLEMENTARY ESTIMATES** may be considered inadvisable, but their value and importance should not be overlooked. Any severe criticism of supplementary estimates may cause a spending committee to increase the margin so well known to be provided in the annual estimates, and the spending of the balance towards the end of the year.

## II. ACCOUNTING SYSTEMS

### 1. SYSTEMS OF ACCOUNTS.

- (1) Accounts are invariably kept on a double-entry system.
- (2) "Receipts and Expenditure" are referred to in—
  - (a) General Orders of the Local Government Board (now Ministry of Health), e.g. 1880.
  - (b) Education Act, 1921.
  - (c) Rating and Valuation Act, 1925, Sec. 54.
  - (d) Poor Law Act, 1930, Sec. 119.
- (3) The Local Government Act, 1933, refers to "Income and Expenditure" (Sects. 182 and 244).
- (4) Income and Expenditure Accounts are required to be kept under the Accounts (Borough and Metropolitan Boroughs) Regulations, 1930.

Income and Expenditure means that all amounts due in respect of a certain period should be brought to account in that period, although not actually received or disbursed before its close.

The Departmental Committee on Accounts of Local Authorities in 1908 proposed that this system should be extended to the accounts of all local authorities other than Parish Councils, Parish Meetings, and Lighting Inspectors.

- (5) "Income and Expenditure" Accounts are usually kept by—
  - (a) The larger Boroughs and Urban District Councils.
  - (b) The authorities who undertake any form of trading.
- (6) The accounts of all local authorities which are required to be audited by the District Auditor are subject to the detailed methods prescribed by the Ministry of Health Orders.

2. SEPARATE ACCOUNTS are prepared to show the Income and Expenditure in relation to each main division of an authority's activities and administration, e.g.—

- (1) In respect of services associated with each rate or forming a distinct important activity.
- (2) Trading enterprises.
- (3) Where Acts of Parliament specifically require such separation, e.g. Education.

There is a growing tendency in the direction of local authorities incorporating in their local Acts the "Brighton and Chesterfield Clauses," under which all incomes (including trading receipts) are made to form part of the General Rate Fund, and all expenses are paid out of that fund. The aim is to form one fund for income tax purposes with a view to obtaining the full benefit of set-off. Although the Commissioners have confirmed the effectiveness of this aim, it is to be tested in the Courts.

### 3. FORMS OF ACCOUNTS.

The Ministry of Health has large powers to prescribe, *inter alia*, the form of accounts of local authorities subject to audit by the District Auditor (see below), but in this connection the Ministry has generally prescribed only the form of Financial Statement to be submitted to the Auditors.

Orders governing Accounts include—

- (1) General Accounts Order, 1880.
- (2) London (Rate Collection) Accounts Order, 1901.
- (3) Rates Accounts Orders, 1926.

Regulations governing Accounts include—

- (1) The Accounts (Liberals and Metropolitan Boroughs) Regulations, 1930.
- (2) The Public Assistance Accounts (County Councils) Regulations, 1930.
- (3) Audit Regulations, 1934.
- (4) Audit Stamp Order, 1938.
- (5) Financial Statements (District Audit) Regulations, 1938.

#### 4. THE PERIOD AND DATES OF MAKING UP OF ACCOUNTS.

The Local Government Act, 1933, provides that accounts subject to audit by district auditors are to be made up *yearly* to the 31st March, or such other date as the Minister of Health may by general or special Order direct, and audited as soon as may be thereafter.

Borough accounts not subject to district audit are to be made up to the 31st March, or such other date as the Council with the consent of the Minister may determine.

#### 5. INSPECTION OF ACCOUNTS BY PERSONS INTERESTED.

(1) In the case of Local Authorities this is provided for by the Local Government Act, 1933, Secs. 224 and 283.

(2) Rating Authority. The Rating and Valuation Act, 1925, Sect. 60, provides that any ratepayer may at all reasonable times inspect and take copies of and extracts from any rate book, etc.

#### 6. PUBLICATION OF ACCOUNTS.

(1) Parish Councils, and Parish Meetings, as well as Joint Committees of Parish Councils and Parish Meetings, are required to lay before the Parish Meeting a copy of the Financial Statement.

(2) The accounts of all local authorities which are subject to audit by the District Auditor are provided for in the Local Government Act, 1933, Sec. 235.

(3) Borough Councils are required to print an abstract of the Treasurer's Accounts annually, after audit.

(4) The Electric Lighting Act, 1882, requires that the Electric Supply Account must be published annually and copies thereof sold at a price not exceeding one shilling.

### III. AUDIT, PUBLICATION AND INSPECTION OF ACCOUNTS

1. INTRODUCTION. Before 1834, churchwardens and overseers were required to render accounts to two Justices of the Peace four days before the end of the year, and such accounts were to be verified on oath and open to inspection. Justices were empowered to examine accounts, and disallow or reduce expenditure.

(2) THE POOR LAW AMENDMENT ACT, 1834, provided that under an Order of the Poor Law Commissioners the Guardians were to appoint a "competent person" to be auditor, to hold office until removed by the Commissioners or by the Guardians with the consent of the Commissioners. Audit by Justices remained, and they had power to allow what auditors disallowed.

(3) THE POOR LAW AMENDMENT ACT, 1844, deprived the Justices of their audit powers. The Auditor was to be appointed by the Chairman and Vice-Chairman of the Board of Guardians. Poor Law Commissioners were empowered by Order to combine parishes and unions into districts for audit purposes.

(4) THE GENERAL ORDER FOR ACCOUNTS, 1847, substituted half-yearly for quarterly audit. This, supplemented by Orders dated 18th November, 1850, and 16th March, 1854, was rescinded by THE GENERAL ORDER FOR ACCOUNTS, 14th January, 1867.

(5) THE LOCAL AUTHORITIES (AUDIT OF ACCOUNTS) ORDER 1934, applies to any local authority, board, or joint committee whose accounts or part of whose accounts are subject to audit by a District Auditor.

(6) THE AUDIT STAMP DUTY ORDER, 1938, revised the method of calculating the stamp duty and also the scale of charges. This necessitated the alteration of the form of financial statements in certain cases and the Financial Statements (District Audit) Regulations, 1938, were issued for the purpose.

2. THE AUDIT OF LOCAL AUTHORITY ACCOUNTS is now performed by—

- (1) District Auditors. (See below.)
- (2) Borough Auditors. (See "Borough.")
- (3) Professional Auditors. (See "Borough.")

3. THE STATUTORY PROVISIONS relating to audits are as follows—

(1) All local authorities outside London: the Local Government Act, 1933, Part X.

(2) London Government Act, 1899, Sec. 14.

These sections are given in detail in *Local Government of the United Kingdom* (Pitman).

4. THE DISTRICT AUDITOR is "a competent person" appointed by the Minister of Health to an audit district in England and

Wales under the Local Government Act, 1933, Sec. 220. His duty is to ascertain that all income receivable has been duly accounted for, that everything stated to have been expended has been expended, and to determine whether the expenditure is truly stated and has been made in conformity with the law.

His salary is paid by the Treasury, but local authorities whose accounts are under government audit contribute thereto by a duty, paid in normal cases by a stamp on the auditor's certificate of their accounts.

In 1868 Parliament directed that future vacancies for auditors should be filled by the Local Government Board, now Ministry of Health. There are no statutory qualifications, but it is the practice to appoint barristers, qualified accountants, solicitors, and persons trained by a district auditor or in the office of the Minister of Health.

#### 5. ACCOUNTS SUBJECT TO THE DISTRICT AUDIT—

- (a) Entire accounts according to authority—
  - (1) County Councils.
  - (2) Metropolitan Borough Councils.
  - (3) Urban District and Rural District Councils.
  - (4) Parish Councils and Meetings.
  - (5) Education Authorities.
  - (6) Rating and Valuation Authorities.
  - (7) Joint Electricity Authorities.
  - (8) Public Assistance Authorities.
  - (9) Borough Councils (some).
  - (10) Drainage and Catchment Boards.
  - (11) Joint Committees if the accounts of any constituent member are subject to district audit.
  - (12) Metropolitan Water Board.
- (b) *Ad hoc* according to functions—
  - (1) Motor Tax Accounts.
  - (2) Probation Officers.
- (c) Examination—
  - Services Grant-aided, e.g. Police, Housing.

#### 6. PROCEDURE in relation to the audit is regulated by the Local Government Act, 1933, as follows—

- (1) Notice is given by the auditor to the Clerk to the Authority.
- (2) Accounts must be deposited seven clear days prior to the audit. (Sec. 224 (i).)
- (3) The Clerk publishes the notice of deposit for fourteen days in a local newspaper. (Sec. 224 (ii).)
- (4) The Financial Statement summarizing the accounts is submitted in duplicate, one copy of which is stamped.

(5) The auditor may summon before him any person liable to account, and may require the production of any necessary books and documents.

(6) All persons interested have a right to be present, and to object to the passing of any item.

#### 7. DISALLOWANCE AND SURCHARGE.

(1) The Local Government Act, 1933, Sec. 228, makes it the duty of the District Auditor to disallow every item of account which is contrary to law and to surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the expenditure.

(2) Further, the District Auditor has the duty of charging upon persons amounts not brought into account or lost through their negligence or misconduct.

(3) The section further provides that the District Auditor shall not disallow any expense sanctioned by the Minister of Health.

#### 8. HIGH COURT DECISIONS.

(a) In *Rex v. Monmouthshire County Council ex parte Smith* (1935), 33 L.G.R. 279, it was decided that the "vouchers" which interested persons may inspect do not include forms of application for educational bursaries, although they are "documents" which the District Auditor may inspect.

(b) In *Rex v. Bedwellty Urban District Council*, [1934] 1 K.B. 333; 98 J.P. 205, it was held that an accountant might accompany a ratepayer when inspecting accounts.

9. APPEALS against decisions of District Auditors lie to the High Court where the amount involved exceeds £500, and in any other case to the High Court or the Minister of Health.

The Local Government Act, 1933, Sec. 59 (1) provides that a person surcharged to an amount exceeding £500 within five years prior to the day of election shall be disqualified for being elected or being a member of a local authority.

#### 10. INTERNAL AUDIT.

(1) Such an audit is in addition to, and not in substitution for, the statutory audit.

(2) May be conducted by a firm of professional accountants or by an internal staff of the local authority.

(3) Duties include the checking of wages, records of stores, loose plant, and tools, etc.

(4) The keeping of diagrammatic charts of income and expenditure, comparison of statistics, etc., are valuable.

## SECTION VIII

### Special Legislation

#### CHAPTER XXX

##### LONDON

THE Local Government of London is specially organized as follows—

- (a) Elected Authorities—
  - (1) London County Council;
  - (2) City of London Corporation;
  - (3) Metropolitan Borough Councils (28).
- (b) *Ad hoc* Authorities—
  - (4) Metropolitan Water Board;
  - (5) Port of London Authority;
  - (6) Thames Conservancy Board;
  - (7) Lee Conservancy Board;
  - (8) see Catchment Board;
  - (9) London and Home Counties Traffic Advisory Committee;
  - (10) London Passenger Transport Board;
  - (11) London and Home Counties Joint Electricity Authority.

*The Administrative County of London* (area 117 square miles; population 4,000,000; rateable value £61,500,000) is administered as a whole by the London County Council and comprises—

- (a) the City of London (area one square mile) administered by the City of London Corporation;
- (b) twenty-eight Metropolitan Boroughs administered by elected borough councils;
- (c) the Inner and Middle Temples administered by Benches of Masters.

I.—**London County Council**, consisting of 124 councillors and twenty aldermen. Established by Local Government Act, 1888.

Councillors are elected for three years, two from each of the sixty Parliamentary Divisions, and four from the City of London.

**ELECTION AND TERM OF OFFICE.** The franchise on which the councillors are elected is now the same as that applicable to other local government authorities.

Aldermen are elected by the councillors and hold office for six years. They need not be councillors but must be qualified for election as such. One half retire every three years.

**MEETINGS.** The Council usually meets weekly.

The Council has a Chairman, who by order of the King in

May, 1935, has the right to the style of "the Right Honourable" prefixed to his official title. There is also a Vice-Chairman and a Deputy-Chairman.

COMMITTEES are appointed of a character similar to those described in Chapter XI relating to County Councils.

POWERS AND DUTIES. These differ widely from those of other County Councils, but include the following matters—

(1) *The Central Public Health Authority*, which, as such, exercises supervisory and co-ordinating powers, and, in addition, certain major health functions; and maintenance of the main drainage system.

The major public health functions referred to are—

- (a) diagnosis and treatment of cancer and venereal disease;
- (b) residential treatment of tuberculosis;
- (c) registration and inspection of nursing (including maternity) homes;
- (d) local supervising authority under the Midwives Acts;
- (e) authority under the Diseases of Animals Acts;
- (f) acting as central hospital authority;
- (g) appointment of the nursing, domestic, and engineering staffs of the British Postgraduate Medical School.

*The Public Health (London) Act*, 1936, consolidates the main enactments relating to public health in London. (See page 262.)

(2) Administration of the Building Acts, and (concurrently with the City corporation and the Metropolitan Borough Councils) the Housing Acts.

(3) Control premises used for public entertainment, including theatres (other than those under the jurisdiction of the Lord Chamberlain), music-halls, and cinemas.

(4) The local authority, under the Town and Country Planning Act, 1932, for the County of London outside the City of London.

(5) Maintenance of the fire brigade, the walls of the Thames Embankments and lamps thereon; provision of bridges (except those of the City Corporation), tunnels and ferries, parks and open spaces. Execution of major street improvements.

(6) Administration of public education (elementary and higher) for the Administrative County.

(7) Provision of approved (formerly reformatory and industrial) schools, mental hospitals, institutions for the mentally defective, and inebriates' homes; and promotion of the welfare of the blind.

(8) Responsibility (as from 1st April, 1930) for the administration of public assistance under the Local Government Act, 1929.

(9) Making certain by-laws which are enforced by the Metropolitan Borough Councils. Acting as a loan-sanctioning authority for the boroughs.

(10) Civil Defence, including air-raid precautions. Acting concurrently with the City Corporation and the Metropolitan Borough Councils.

(11) Control of the storage of explosives and petroleum.

(12) Promotion of and opposition to Bills in Parliament.

(13) Responsibility for licensing and registration.

**TRANSFER OF POWERS.** Provision is made by the Local Government Act, 1929, Sec. 64, for the transfer or delegation, by order of the Minister of Health, to Metropolitan Borough Councils and the Common Council of the City of London of the functions of the London County Council, other than the poor law functions transferred to the County Council by Part I of the Act. Two such Orders have been issued, one in 1933 and one in 1934.

**DUTIES** of the former Metropolitan Asylums Board, now transferred to the London County Council, include the provision and maintenance of—

(1) Isolation hospitals for pauper and non-pauper cases alike.

(2) Sanatoria and hospitals for tuberculous patients, whether persons insured under the National Insurance Acts or otherwise.

(3) An ambulance service for the removal of patients.

(4) Hospitals for mental defectives, as distinct from lunatics.

(5) A training ship for boys for sea service.

(6) Hospital accommodation for sick and convalescent children of various classes under the poor law.

(7) Casual wards for the poor (administered prior to 1st April, 1912, by separate boards of guardians).

(8) Institutions for parturient women suffering from venereal disease.

(9) Hospitals for treatment of ophthalmia neonatorum (blindness of newly born infants).

(10) A colony and home for sane epileptics.

**PUBLIC ASSISTANCE.** The Local Government Act, 1929, Sec. 4, required the London County Council to prepare a scheme for discharging the functions transferred to the Council under Part I, Poor Law, of the Act.

*An Administrative Scheme* was adopted by the Council on 16th July, 1929. This scheme was superseded, as from 1st July, 1935, by an amending scheme, approved by the Minister of Health as from 13th March, 1935. The present scheme is as follows—

Part I contains definitions.

Part II is a Declaration as to the provision of certain assistance otherwise than by way of poor relief.

Part III delegates to Committees the poor law functions.

Part IV sets out the constitution and functions of the Public Assistance Committee.

Part V provides for the division of the county into areas, the constitution of area committees and sub-committees and assessment sub-committees and their functions.

Part VI sets out the poor law functions of the Hospitals and Medical Services Committee.

Parts VII to XI set out the functions of other Committees (including Mental Hospitals, Education, Welfare of the Blind, Finance).

Part XII relates to duties retained by the Council and not delegated to committees and the application of the Standing Orders of the Council to Committees charged with poor law functions.

OFFICERS include those as appointed by provincial Councils (*see Chapter XI*), together with a Comptroller, Architect, Solicitor and Parliamentary Officer, Chief Officer of Fire Brigade, Valuer, Chief Officer of Public Control Department, Chief Officer Parks Department, Education Officer, Chief Officer of Supplies, Chief Officer Mental Hospitals Department, Chief Officer of Public Assistance.

FINANCE. The expenditure of the Council is met by income on various services (interest on loans to other authorities, rents of land and buildings, etc.); Government grants; and county contributions (i.e. rates).

The Council makes annually a county rate divided into two parts: (i) for general county purposes; and (ii) for special county purposes. The Council does not itself collect the rate, but makes half-yearly precepts therefor upon the constituent local authorities (the Metropolitan Borough Councils, the City of London Corporation, and the Inner and Middle Temples). The precepts for the special county rate (relating to certain expenditure on housing, Lunacy Acts, coroners, as regards which the City Corporation have their own special powers) are not sent to the City Corporation or the Inner and Middle Temples.

EQUALIZATION OF RATES. In view of the burden of expenditure in and the lower rateable value of the poorer metropolitan boroughs, attempts have been made at various times to secure some measure of equalization of rates throughout the county. The present position is defined by the Local Government Act, 1929, Section 100, which requires the Council, in the case of the rating areas adversely affected by the operation of Parts I, V, and VI of the Act (relating to the transfer of poor law functions to the County Council, the relief of industrial properties from three-quarters of the rates normally payable thereon, and the alteration in the basis of Exchequer grants) to make rebates from the amounts which would, by the application of a uniform rate in the £, be contributed for general county purposes. Further, under the Local Government (Financial Provisions) Act, 1937,

Section 7, the Council is required to adjust the general county contributions demanded under precept in order to equalize, as between the separately rated areas in the county, the losses due to derating of industrial properties. The old Metropolitan Common Poor Fund (established in 1867 for equalizing over the county the expenditure on poor law services) and the Equalization Fund (established in 1894 for equalizing over the county certain expenditure on public health, lighting, and streets) were abolished by the Local Government Act, 1929 (Schedule IX, Part I, para. 8; and Section 98 (4)).

ACCOUNTS are audited by the District Auditor of the Ministry of Health.

LOANS. The provision of Sec. 69 of the Local Government Act, 1888, relating to borrowing by County Councils does not apply to the London County Council. Borrowing by this authority is regulated by its annual Money Acts. This system dates from the Metropolitan Board of Works (Loans) Act, 1869, and the powers were consolidated by the London County Council (Finance Consolidation) Act, 1912. Sec. 4 (1) of that Act limits the Council's expenditure on capital account to the sums specified in its annual Money Acts, and Sec. 4 (2) provides that money borrowed shall be repaid within such period not exceeding 60 years as the Council with the approval of the Treasury may determine.

Each year's Money Act authorizes the amounts to be expended during the financial year and the following six months, the six months' powers being superseded by the power subsequently obtained for the financial year. The Money Acts do not authorize the works on which expenditure is to be incurred, but only authorize and regulate the expenditure on works already authorized by general or special legislation.

LONDON SQUARES AND OPEN SPACES were the subject of a Royal Commission, which reported in September, 1928. It recommended that in the public interest all the enclosures, numbering 461 in all, and described in Appendix III attached to their report, should, with the exception of five, be permanently preserved as open spaces and not used for building purposes. The Report led to the passing of the London Squares Preservation Act, 1931.

II.—CITY OF LONDON CORPORATION is under the control of the Court of Aldermen, the Court of Common Council, and the Court of Common Hall.

1. THE COURT OF ALDERMEN consists of the Lord Mayor and Aldermen, who are *ex officio* Justices of the Peace. It is the only surviving example in England of a municipal second chamber. It makes the final selection of the Lord Mayor from the two nominees of the Court of Common Hall. Usually the one of

longest standing who has not already passed the Chair, i.e. served as Lord Mayor, is chosen.

2. THE COURT OF COMMON COUNCIL consists of the Lord Mayor, 26 Aldermen, and 206 Common Councillors.

(1) *The Common Councillors* are chosen annually in a Wardmote of the electors in different proportions in the twenty-six Wards by the City electors, being persons who have a property qualification in the City.

(2) *Aldermen* are elected for life by a Wardmote of the electors of the Wards as follows—

(a) One for each of 24 of the Wards;

(b) Two wards elect one between them, and

(c) The remaining Alderman sits for the nominal Ward of Bridge-Without.

(3) *The Lord Mayor* is elected annually by the Court of Aldermen from two aldermen nominated by the Liverymen in the Court of Common Hall. (See par. 6 below.)

3. MEETINGS are usually held every fortnight.

4. COMMITTEES are appointed as in the case of provincial Boroughs. (See Chapter IX.)

5. POWERS AND DUTIES of the Court of Common Council include all the general powers possessed by the Metropolitan Borough Councils and

(1) Legislative power in so far that it can remodel its own constitution.

(2) Control of its own Police Force.

(3) Acting as Port Health authority for the Port of London.

(4) Maintenance of the City Bridges, West Ham Park, Epping Forest, and certain other open spaces; and provision of an air port.

(5) Jurisdiction over all markets within seven miles of its boundary.

(6) Provision of its own mental hospital.

(7) Acting as local authority under the Town and Country Planning Act, 1932.

(8) Administration of the extensive trust funds of the City.

(9) Maintenance of the Lord Mayor's Court and the City of London Court for civil purposes for which the Court elects a Registrar.

(10) Administration of criminal jurisdiction in its own Police Courts, held daily at the Mansion House and Guildhall, presided over by the Lord Mayor and Aldermen sitting in turn.

(11) Appointment of Coroner, who has power to conduct inquests in case of fire.

6. THE COURT OF COMMON HALL is an assembly of the Lord Mayor, Aldermen, Sheriffs, and all the "Liverymen" members of

the City Companies (see par. 7 below). The Court nominates two Aldermen for office of Lord Mayor, for submission to the Court of Aldermen for final selection.

7. **LIVERYMEN** are members of the City Livery Companies, which are survivors of the ancient Gilds and Associations of Craftsmen, such as the Goldsmiths, Stationers, etc. They have their own governing body consisting of the Master, Wardens, and Courts of Assistants. The Master and the Wardens are elected annually, vacancies in the Court being filled by co-optation. Persons appointed to the Court hold office for life. Any freeman of a Livery Company may claim the freedom of the City.

### III.—Metropolitan Borough Councils.

1. There are twenty-eight Metropolitan Borough Councils, constituted by the London Government Act, 1899.

2. **COUNCIL** consists of Mayor, Aldermen and Councillors.

(1) *Councillors*. The number varies in the different boroughs, and may be further varied by the Secretary of State as provided by the Borough Councillors (Alteration of Number) Act, 1925. They are elected for three years, in wards, by local government electors, and all retire at the same time.

(2) *Aldermen* number one-sixth of the number of Councillors, and are elected by the Councillors. They hold office for six years, and one-half retire every three years.

(3) *The Mayor* is elected in the same way as in the Provinces.

A Deputy-Mayor may be appointed.

3. **MEETINGS** are usually held once a month.

4. **COMMITTEES**. Standing Committees are appointed. See Chapter IX for purposes of comparison.

5. **POWERS AND DUTIES** are similar to those in provincial boroughs, as to which see Chapter IX, but the London County Council undertake many important duties, as explained *ante*. Among other duties the Metropolitan Borough Councils are responsible for—

(1) Sweeping, cleansing, lighting and maintenance of streets.

(2) Collection and disposal of house refuse.

(3) Drainage other than main sewers.

(4) Provision and maintenance of public libraries, baths and washhouses, burial grounds and crematoria, museums and gymnasia, disinfecting stations.

(5) Enforcement of building by-laws and the laws against overcrowding, food adulteration, nuisances and insanitary conditions.

(6) Administration of (concurrently with the County Council) the Housing Acts, and the Maternity and Child Welfare duties.

(7) Appointment of elementary school managers under the Education Act, 1921, Sec. 36.

(8) Management of trading undertakings, e.g. electricity generating and distributing stations.

(9) Regulation of street trading and the issue of licences to street traders.

(10) Registration of electors.

(11) Registration of births, deaths, and marriages. (Local Government Act, 1929, Sec. 27.)

(12) Duties in regard to vaccination (formerly performed by the Boards of Guardians).

6. OFFICERS are similar to those in provincial boroughs. (See Chapter IX.)

7. RATES. Each borough council is responsible for the valuation and assessment of property for rates. It levies and collects the General Rate for the borough, including the amounts required by the London County Council and the Metropolitan Police. Water charges are levied and collected by the Metropolitan Water Board.

8. ACCOUNTS are made up annually and audited by the District Auditor of the Ministry of Health.

9. METROPOLITAN BOROUGHS "STANDING JOINT COMMITTEE" is a voluntary and not a statutory body. It consists of representatives of the Common Council of the City of London and of the Metropolitan Borough Councils. It protects the joint interests of the borough councils in dealing with matters raised in Parliament, by Government Departments and with other public bodies.

#### RECENT LEGISLATION AFFECTING LONDON

##### London Building Acts, 1930, 1935, and 1939.

The London Building Act, 1930, consolidated the enactments relating to streets and buildings in London. The provisions related mainly to the formation, widening, naming, and numbering of streets, the prescription of lines of building frontage, the construction of buildings, the provision of open spaces about buildings and of means of escape in case of fire, and the control of sky signs. The authority for the general execution of the Act is the London Council, who act through district surveyors specially appointed. The London County Council make the necessary by-laws, which are enforced by the City Corporation and the Metropolitan Borough Councils.

The London Building Act (Amendment) Act, 1935, extended the powers of the London County Council, enabling them to regulate the control of the construction of buildings by means of by-laws, made by themselves, instead of proceeding under statutory provisions. The advantages of this procedure are that

it is more flexible than and can be altered more speedily than a statute in order to cope with technical advances in building construction.

The London Building Act, 1930, was a purely consolidating measure. It did not include amendments designed to bring the provisions up to date. The main object of the London Building Acts (Amendment) Act, 1939, is to amend the Act of 1930, in order to bring it into closer conformity with modern requirements and general building practice. As a result, nearly the whole of the Act of 1930 has been repealed and re-enacted, leaving only in operation the parts of that Act which have relation to town planning considerations and the parts which do not at present call for amendment. The former parts are concerned with the formation and widening of streets, the fixing of lines of building frontage, the provision of open spaces about buildings, and the limitation of height of buildings, and have been left over for review when the County Town Planning Schemes are in operation. The latter parts relate to the control of buildings used for dangerous and noxious businesses and the erection of dwelling-houses on low-lying land.

The Act of 1939 also extends the matters in respect of which by-laws may be made by the London County Council under the London Building Act (Amendment) Act, 1935, and, in particular, includes such matters as the fire grading of buildings and building materials and the construction of lifts.

#### Local Government Act, 1933.

This Act does not apply to London with the exception of—  
Part III. Joint Committees.  
Part X. Accounts and Audit.  
Part XI. Local Financial Returns.

#### London Government Act, 1939.

This Act does generally for London what the Local Government Act, 1933, did for the rest of the country—that is to say, it consolidates the law relating to the constitution and administrative functions of the London County Council and the Metropolitan Borough Councils. The provisions as to the constitution of these councils include the appointment of committees; the procedure governing elections; the financial machinery, comprising the issue of county precepts, the levy of borough rates, the establishment of the county fund and the borough general rate funds; and the borrowing powers of the borough councils.

The borrowing powers of the London County Council have not been included in this Act. They are contained in the London

County Council (Finance Consolidation) Act, 1912, as amended subsequently. The provisions as to administrative functions including powers of acquiring land by agreement or compulsorily, the procedure for making by-laws and provisional orders, the promotion of and opposition to Bills in Parliament, the conduct of legal proceedings, the service of notices, the erection of offices, and the appointment of officers.

### Public Health Act, 1936.

Part X of this Act relating to the registration of canal boats applies to London, the authorities responsible being the City of London Corporation and the Metropolitan Borough Councils.

### Public Health (London) Act, 1936.

The fourteen parts of the Act are—

Part I. Local Administration. The Mayor, etc., and Citizens of London are made the Port Health Authority.

Part II. Sewerage and Drainage. General functions of borough councils in relation to sewerage and drainage. Special functions of county council in relation to sewerage.

Part III. General Sanitation and Cleanliness. Water Supply, Sanitary Conveniences, Verminous Articles, Premises and Persons.

Part IV. Offensive Trades.

Part V. Smoke Consumption.

Part VI. Tenements and Lodging Houses. Common Lodging Houses.

Part VII. Public Baths and Washing Houses.

Part VIII. Food. The principal provisions of this Part have been repealed and re-enacted in the Food and Drugs Act, 1938. (See Chapter XII.)

Part IX. Prevention and Treatment of Disease.

Part X. Hospitals. Medical Service. Ambulances. Mortuaries.

Part XI. Registration of Nursing Homes.

Part XII. Maternity and Child Welfare.

Part XIII. Child Life Protection.

Part XIV. Miscellaneous and General, including incidental powers of sanitary authorities and Port Health Authority.

### IV.—The Metropolitan Water Board.

1. CONSTITUTED under the provisions of the Metropolis Water Act, 1902.

2. BOARD consists of 66 representatives nominated by local authorities, including—

(1) London County Council, and five other County Councils.

(2) Metropolitan Borough Councils and the Common Council of the City of London.

(3) Councils of Boroughs and Urban Districts served by the Water Board.

3. DUTIES consist in administering the undertakings of the eight Metropolitan Water Companies which were expropriated under the terms of the Act. The Board serves an area much larger than that of the Administrative County of London—574 square miles containing about 7,500,000 persons.

4. FINANCE. The Board levies and collects charges based mainly on the rateable value of premises. Funds may be borrowed for the performance of the duties with the consent of the Minister of Health.

#### V.—Port of London Authority.

1. CONSTITUTED under the Port of London Act, 1908.

2. AUTHORITY consists of 10 appointed and 19 elected members. The Chairman and the Vice-Chairman of the Authority may, but need not, be elected or appointed members. Elected members are returned on a plural system, payers of dues having from one to fifty votes, according to the amount of dues paid, and wharfingers from one to ten votes according to the rateable value of their premises, whilst owners of river craft have from one to ten votes according to the number of vessels they possess.

3. AREA administered from mouth of Thames to Teddington Lock.

4. DUTIES include the management of the undertakings transferred as from the 31st March, 1909, viz., Thames Conservancy; London & India Docks Company; Surrey Commercial Dock Company; Millwall Dock Company; and Watermen's Company, which, until 1908, licensed all lightermen navigating the river.

#### VI.—Thames Conservancy Board.

1. CONSTITUTED by Act of Parliament in 1854, and re-constituted by the Port of London Act, 1908, and again re-constituted as from 1st April, 1931.

2. AUTHORITY consists of 31 members appointed by local authorities (London County Council and the City of London Corporation, one member each) and Government Departments, together with a maximum of three additional members appointed by the Minister of Agriculture and Fisheries to represent internal drainage boards in the catchment area.

3. AREA administered extends from Cricklade in Wiltshire to Teddington Lock (i.e. outside the administrative county of London).

4. DUTIES relate mainly to the maintenance and improvement of the navigation and the prevention of pollution; and the control of the Thames catchment area.

#### VII.—Lee Conservancy Board.

1. AUTHORITY consists of 15 members of whom 14 are elected by local authorities and one by the barge-owners on the river.

2. DUTIES relate to maintenance of navigation and prevention of pollution.

#### VIII.—Lee Conservancy Catchment Board.

1. AUTHORITY consists of 21 members appointed by the Conservancy Board, the Minister of Agriculture and Fisheries, and certain local authorities (including the London County Council).

2. DUTIES. Control of the Lee catchment area.

#### IX.—The London and Home Counties Traffic Advisory Committee.

This committee was constituted by the London Traffic Act, 1924, to assist the Minister of Transport in connection with problems of London traffic. The Committee was reconstituted in 1933.

#### X.—London Passenger Transport Board.

(1) The London and Home Counties Traffic Advisory Committee published, in 1927, a Transport Co-ordination Scheme which provided for the common management of passenger transport undertakings operating wholly or partly within the London traffic area.

(2) Legislation with the object of enabling the London County Council's tramways to be included in the proposed scheme was, however, rejected by Parliament in 1929.

(3) The London Passenger Transport Act, 1933, provided for the transfer to a Transport Board of the various municipally-owned and privately-owned transport undertakings on terms to be agreed in accordance with the Act. The Act vested in and transferred to the Board a number of specified undertakings within the area, including the tramways undertaking of the London County Council.

#### XI.—London and Home Counties Joint Electricity Authority.

(1) Constituted in 1925 by Order of the Electricity Commissioners under Section 7 of the Electricity (Supply) Act, 1919.

(2) The Electricity District comprises the City of London, the Counties of London and Middlesex, and parts of the home counties.

(3) The Joint Authority is composed of representatives of the County Councils, Local Authority undertakers, company undertakers, and power companies supplying electricity within the area, and others.

(4) The object in view was the setting up of a central administrative and co-ordinative authority to ensure the supply of electricity on economic terms by means of a standardized system.

(5) In 1971, the assets of company undertakings will be transferred to the Joint Authority pursuant to the provisions of the London Electricity (No. 1) and (No. 2) Acts, 1925.

#### XII.—Gas Authorities.

Gas is supplied by statutory private companies, including Gas Light and Coke; South Metropolitan; Commercial; South Suburban; Wandsworth.

#### XIII.—Police Authorities.

There are two police forces in Greater London, the Metropolitan Police and the City of London Police.

THE COMMISSIONER OF POLICE OF THE METROPOLIS is appointed by the Crown and acts under the immediate authority of the Home Secretary. The Metropolitan Police District is an area roughly circular at 14 miles radius from the City of London, but it excludes that city. It extends far beyond the County of London. The Receiver for the Metropolitan Police District is responsible for finance and is appointed by the Crown. In addition to ordinary police duties, the Commissioner is responsible for the regulation of traffic in the streets. The cost of the Metropolitan police is met to the extent of one-half by Government grants, the other half being met by a police rate levied on the metropolitan boroughs.

THE COMMISSIONER OF CITY POLICE is appointed by the Common Council of the City of London, subject to the approval of the Crown. The cost of the City police is met to the extent of one-half (less the produce of a rate of 4d. in the £) by Government grants, and the balance by rates levied on the City.

#### XIV.—Judicial Authorities.

There is a Standing Joint Committee of the Quarter Sessions and the London County Council. Quarter sessions are held at Newington for criminal offences within their jurisdiction, appeals from metropolitan police courts and petty sessional courts, rating appeals, applications for licences for premises for the sale of alcoholic liquors, and for licences for dog-racing tracks, game dealers, etc.

The chief courts of summary jurisdiction are the metropolitan police courts presided over by stipendiary magistrates, and the City of London justice rooms. There are in addition the petty sessional divisions, which generally deal with minor cases not referred to the metropolitan police courts.

The Metropolitan Police Court District is identical with the administrative county of London except that it does not include the City of London and the northern part of Hampstead.

There are no Assizes for the graver criminal offences in the County of London, the work being done at the Central Criminal Court.

#### XV.—Town Planning Authorities.

The town planning authorities for the administrative county of London are the City Corporation as respects the City of London and the London County Council as respects the rest of the county. The London County Council originally decided to make schemes for approximately one-third of the county under the Housing, Town Planning, etc., Act, 1919, and the Town Planning Act, 1925. The present policy is to make six schemes under the Town and Country Planning Act, 1932, which are to cover the whole of the county (excluding the City of London, Lincoln's Inn, and the Inner and Middle Temples), and which will ultimately include all previous schemes.

The first draft scheme for Area IV (South-West), comprising the metropolitan boroughs of Battersea and Wandsworth, was adopted by the Council in 1938, and representations thereon are at present under consideration.

The final scheme will in due course be submitted to the Minister of Health for approval.

The City Corporation are engaged on the preparation of a town planning scheme for the city of London.

#### GREATER LONDON

Consequent upon representations made by the London County Council, a Royal Commission, presided over by Viscount Ullswater, was appointed in October, 1921, to inquire and report on the local administration of Greater London. The Reports are dealt with in *Local Government of the United Kingdom* (Pitman).

## CHAPTER XXXI

### SCOTTISH LOCAL AUTHORITIES

#### 1. SCOTTISH LOCAL GOVERNMENT

Has always developed upon lines distinct from those in England and Wales. Probably due to the recognition of the ancient powers which had been conferred on the Scottish local authorities by the Scottish Parliament, prior to the Act of Union, 1707.

#### 2. CENTRAL DEPARTMENTS

Are principally housed at Edinburgh. The office of the Secretary of State for Scotland is in Whitehall, London, but there is now a similar office in Edinburgh.

The principal officers are—

(a) *The Secretary of State for Scotland.* Office of Secretary for Scotland established in 1885. Status raised to that of a Secretary of State in 1926, with a Parliamentary Under Secretary of State. The powers include—

(i) Powers previously held by the Privy Council, the Home Office, the Treasury and the Local Government Board of England.

(ii) President of the Scottish Education Department.

(iii) President of the Scottish Board of Health.

(b) *The Lord Advocate* is the legal representative of the Crown in Scotland and legal adviser to the Secretary of State.

(c) *The Department of Health for Scotland* was established by the Reorganisation of Offices (Scotland) Act, 1928, when it replaced the Scottish Board of Health. It has had transferred to it the powers and duties of the

(i) Local Government Board of Scotland, the Scottish Insurance Commission, the Privy Council, and the Lord President of the Council under the Midwives (Scotland) Act, 1925;

(ii) Secretary of Scotland under the Rivers Pollution Acts, the Births, Deaths and Marriages Acts, the Burial Grounds Acts, the Vaccination Acts and the Highlands and Islands (Medical Service) Grant Act, 1913;

(iii) Scottish Education Department with respect to medical inspection and treatment of children and young persons.

(d) *The Scottish Education Department* is the central authority for education in Scotland.

(e) *The Department of Agriculture for Scotland.* There are separate Boards of Agriculture and of Fisheries for Scotland.

(f) *The Fishery Board of Scotland* was established in 1882 for

the purpose of taking over the duties of the Board of British White Herring Fishery.

(g) *The General Board of Control for Scotland* received its name in 1913 when the constitution of the General Board of Commissioners in Lunacy was slightly modified.

(h) *The Commissioners of Northern Lights* who are responsible to the Board of Trade.

*The Gilmour Committee*, which reported in 1938, recommended that there should be four main Scottish Departments, viz. Departments of Agriculture, Education, Health, and the Scottish Home Department. Legislation to give effect to these recommendations will be introduced in 1939.

### 3. LOCAL AUTHORITIES.

(1) *The Local Government (Scotland) Act, 1929*, has fundamentally altered the constitution of local government in Scotland. Broadly speaking, the local authorities are—

- (i) County Councils;
- (ii) Burgh Councils (Royal, Parliamentary and Police Burghs)
- (iii) District Councils.

(2) *Scheme of Administration*. The Act of 1929 provided that

- (i) The County Council of every county; and
- (ii) The Town Council of every large burgh

should on or before 31st March, 1930, prepare and submit to the Secretary of State a scheme or schemes of administrative arrangements relating to (a) poor law, (b) public health, (c) lunacy and mental deficiency; and (d) in the case of a county council (i) roads and (ii) education.

(3) *Large Burgh* is defined by sec. 77 of the 1929 Act as a burgh containing a population of 20,000 or upwards, and includes the burgh of Arbroath. A *Small Burgh* means any burgh other than a large burgh.

(4) *Combination of Local Authorities* under the Act of 1929, Sec. 11 (1) by any two or more local authorities.

(5) *Committees* must be provided for in the scheme for the purpose of any function to which the scheme relates.

(6) *Qualification* is provided by the County, Town and Parish Councils (Qualification) (Scotland) Act, 1914, and Sec. 9 (2) of the 1929 Act.

(7) *Disqualifications* apply as in English local authorities, but a person in Scotland is not disqualified from being a councillor on account of being in receipt of Poor Relief.

4. COUNTY COUNCILS were established by the Local Government (Scotland) Act, 1889. They are the equivalent of the County Councils in England and Wales.

*County Councillors* are elected for electoral divisions, being either: (a) a parish, or (b) part of a parish, or (c) a combination of two or more parishes, or (d) part of a Police Burgh.

County Councils, in 1889, replaced the Commissioners of Supply, and the new powers and duties included: (a) appointment of medical officers and sanitary inspectors; (b) powers under the River Pollution Acts; (c) power to promote and oppose bills in Parliament; (d) power to make by-laws against vagrancy and nuisances; (e) financial provisions relating to estimates, rates, and audit.

County Councils, as successors of the Commissioners of Supply, have charge of the roads, bridges, public health, police, etc., but have no control over Burghs with 20,000 population, except for education.

*Reconstitution* by the Act of 1929, Sec. 8 of which provided that the County Council should, as from the 1st October, 1929, consist of—

(a) Members elected for the landward area, and of members representing the burghs (including police burghs) included within the county for any purpose, whether under this or any other Act.

(b) The members representing the landward area of the county shall be elected for the electoral divisions of the county (not being police burghs or part of police burghs).

“Landward area” means any portion of the county not included in a burgh.

(c) The members representing the burghs shall be elected by the Town Councils of the burghs, and for that purpose the provisions of Sec. 8 of the Local Government (Scotland) Act, 1889, shall apply with the necessary modifications to all the burghs. The Secretary of State has power by order to determine the number of members of the County Council.

(d) The Local Government (Scotland) Act, 1929, Sec. 17, provides that a County Council may incur expenditure in paying allowances in respect of travelling and other personal expenses necessarily incurred and time necessarily lost from ordinary employment by members of the council, or of any committee or sub-committee, thereof in attending meetings of such council, committee, or sub-committee.

*Combination of counties* by the Act of 1929, Sec. 10, and the Second Schedule, for certain purposes.

*Committees.* The Act of 1929, Sec. 12 (2), provides that every County Council shall appoint committees for the purpose of their functions relating to (a) police and (b) poor law, as well as the Education Committee referred to in the section on Education. All matters relating to the exercise by a County Council of their functions (other than functions relating to the raising of money

by rate or loan) relating to (a) education, (b) police, and (c) poor law, shall stand referred to the appropriate committee.

*Power of Delegation.* The Act of 1929, Sec. 13, provides that a County Council may, on such terms and conditions as the council may agree, appoint—

- (a) The Town Council of any small burgh within the county; or
- (b) The District Council of a district within the county; or
- (c) A Joint Committee of such a Town Council or District Council (of which Joint Committee the members of the County Council for the burgh and district shall be members); to act as the agents of the county council to carry out any function (other than a function relating to education or police and unless with consent of the Central Department relating to any form of surgical or medical treatment) vested in the County Council and exercisable within the small burgh or district, or small burgh and district as the case may be.

The Chairman of the County Council is elected annually by and from the members, and is called the Convener of the County.

#### POWERS AND DUTIES.

(1) *The County Council replaced in 1889—*

(a) The Commissioners of Supply which by the Act of 1929, sec. 5 (5), are dissolved.

(b) The Local Authority under the Contagious Diseases (Animals) Act.

(c) Local Authority under the Public Health Acts in respect of nuisances, diseases, drainage, and water supply in respect of work previously done by Parochial Boards.

(d) Justices of the Peace, including most of their administrative powers, such as those in relation to: (a) gas meters; (b) explosive substances; (c) weights and measures; (d) habitual drunkards; (e) wild birds; (f) appointment of visitors to asylums; but not their functions under the licensing of hotels, etc.

(2) *The new powers and duties* which were conferred upon the County Councils by the Act of 1889 included—

(a) Appointment of fully-qualified medical practitioners and fully-qualified and experienced sanitary inspectors.

(b) Powers under the Pollution of Rivers Acts.

(c) Power to promote and oppose Bills in Parliament.

(d) Power to make by-laws against vagrancy and nuisances not already punishable.

(e) Financial provisions relating to estimates, rates, and audit.

A consolidated rate was provided, the demand note for which must contain details of the separate amounts due in respect of each service.

## (3) NEW POWERS AND DUTIES UNDER THE LOCAL GOVERNMENT (SCOTLAND) ACT, 1929—

(1) Sec. 1 (1) transferred to the County Council the functions of:

- (a) Parish Council;
- (b) District Boards of Control.

(2) Sec. 2 transferred to the County Council of the county—

(a) All the functions of the District Committees of the districts within the county.

(b) The functions of Town Councils of small burghs within the county as local authorities for the purposes of the statutory provisions set out in Part I of the First Schedule to this Act.

(c) The functions of the Town Councils of small burghs within the county as highway authorities so far as related to classified roads.

(d) All the functions of the Commissioners of Supply of the county.

(e) The functions of the Town Council of any burgh under the Burial Grounds Acts and the Cremation Act, 1902, exercisable in respect of areas outside the Burgh and in the County.

(f) The functions of the Town Council of any large burgh under the Registration of Births, Deaths, and Marriages Acts so far as relate to any area without the burgh and within the county.

(3) It shall be lawful for the Secretary of State by order to transfer to the County Council of a county the functions of the Town Councils of the small burghs within the county as local authorities for the purpose of certain statutory matters.

(4) Where any road vested in the Town Council of a small burgh becomes a classified road, the road becomes vested in the County Council.

(5) The County Council may exercise the power of appointing general commissioners, transferred from the Commissioners of Supply, at any general meeting of the council, the notice of which has specified the appointment as an item of business.

*Section 3 transferred to the County Council—*

(a) The education authority functions for the purposes of the Education (Scotland) Acts, 1872 to 1928, for that county, excluding the area of a burgh being a county of a city.

(b) The functions of the Town Council as police authorities in all burghs except large burghs.

(c) The functions as to registration of electors.

*A County Clerk may appoint one or more persons approved by the County Council to act as his depute or deputes. (Sec. 43.)*

5. BURGHS, which are the equivalent of the provincial Boroughs in England and Wales, are of three classes, viz.—

(1) *Royal Burghs* which were incorporated by Royal Charter.

(2) *Parliamentary Burghs* which were created under the Reform Act, 1832, and received the right of sending members to Parliament.

Broadly speaking, Royal and Parliamentary Boroughs correspond to County Boroughs in England and Wales. Prior to the Act of 1929 they were independent of the County Council except for maintaining a police force where population was less than 7,000 or where they did not maintain a separate police force.

(3) *Police Burghs* consist of towns of 700 inhabitants and upwards, constituted under a General Police Act. Roughly, they are the equivalent of the urban districts and non-county borough councils in England and Wales. (Burgh Police (Scotland) Act, 1892, Sec. 4 (26).)

THE TOWN COUNCIL consists of the Provost, Bailies, and Councillors, elected in accordance with the Town Councils (Scotland) Act, 1900. The Provost and Bailies are elected in the usual way, and are afterwards appointed to their respective offices by the Council.

(a) PROVOST, who is the equivalent to the Mayor in England and Wales, holds office for three years, and is unpaid.

(b) BAILIES, equivalent to Aldermen in England and Wales, are elected by the whole Council, and retain office for the same period as originally elected as councillors. They are magistrates, and in towns of over 7,000 inhabitants they constitute the Licensing Bench. (Licensing (Scotland) Act, 1903, Sec. 2.)

(c) COUNCILLORS are elected as in England and Wales every November, and hold office for three years, one-third retiring annually.

MEETINGS are usually held monthly, but in Glasgow they are held fortnightly.

COMMITTEES are appointed, the Chairmen of which are termed Conveners, except only the Dean of Guild Court, whose Chairman is called the Dean of Guild. The Dean of Guild Court by which the Building Acts are administered, is both a Committee of the Council and in some burghs an ancient Court of the Realm.

POWERS AND DUTIES relate to public health, housing, street cleansing, and lighting, police and fire protection, baths and wash-houses; maintenance of roads, bridges, parks, gardens, public buildings, and the administration of Acts relating to registration, (in large Burghs only), weights and measures, and valuation.

6. DISTRICT COUNCILS are established in accordance with the Local Government (Scotland) Act, 1929, Sec. 25.

(1) *Constitution.* County Council on or before 1st February, 1930, to prepare and submit to the Secretary of State for his approval a District Council scheme. Scheme to divide landward part of the county into districts so that each district shall comprise one or more electoral divisions.

District Council constituted of number of members specified in the scheme consisting of—

(a) The members of the County Council for the electoral divisions *ex officio* members.

(b) The other members elected for the electoral division within the district or wards forming part thereof as provided by the scheme.

(c) The members hold office for three years and go out of office same time as County Councillors.

(2) District Council is incorporated under the name of the District Council of the District.

(3) Meetings in accordance with the Local Government (Scotland) Act, 1894, applicable to Parish Councils.

(4) *Powers and Duties* include acting as agents for the County Council in accordance with scheme under the Act of 1929, Secs. 13 and 14.

(5) *Officers.* The clerk, who shall hold office during the pleasure of the Council.

(6) *Accounts* in accordance with the provisions of

(a) The Local Government (Scotland) Act, 1889 (relating to the accounts of the County Council) and

(b) The Third Schedule of the Act of 1929.

(7) *District Council Rate* in lieu of the special parish rate leviable under Part IV of the Local Government (Scotland) Act, 1894.

7. THE EDUCATION AUTHORITY was established by the Education (Scotland) Act, 1918. Under Section 3 of the Act of 1929, the Education Authority will be in future—

(1) The Town Council of a burgh being a county of a city, and  
(2) The County Council of a county.

And each authority shall, under a scheme made by it and approved by the Scottish Education Department, constitute an *Education Committee*, and every scheme shall provide—

(a) For the appointment by the County or Town Council of at least a majority of the committee from persons who are members of the council;

(b) For the appointment by the council of persons of experience in education and of persons acquainted with the needs of the various kinds of schools in the area for which the council act;

(c) For the inclusion of women as well as men among the members of the committee; and

(d) As respects the first Education Committee to be appointed, for the inclusion of one or more members of the outgoing Education Authority.

*School Management Committees* are appointed under the Act of 1929 for each parish or group of parishes.

8. PUBLIC ASSISTANCE. The Act of 1929, Sec.1, provided that the functions of Parish Councils should be transferred to and vest in—

(a) The County Council of the county as reconstituted; and

(b) The Town Council of the large burgh so far as the functions relate to the large burgh or a portion thereof.

## CHAPTER XXXII

### SCOTTISH LOCAL GOVERNMENT FINANCE

#### INTRODUCTION

THE Scottish system of local finance differs in many respects from that of England and Wales. The salient points of difference will be found incorporated in this chapter, and are dealt with in the same order as those matters are treated in the sections relating to England and Wales, thus facilitating easy reference, viz.—

- I. Grants-in-Aid.
- II. Borrowing Powers of Local Authorities.
- III. Valuation and Rating.
- IV. Financial Administration and Audit.

#### I. SCOTTISH GRANTS-IN-AID

The system of Scottish Grants-in-Aid is similar to that of England, but is quite distinct. The Local Government (Scotland) Act, 1929, Part III, reconstructed the system of Exchequer Grants on a similar basis to that of England, but with certain necessary modifications.

(1) General Exchequer contributions provided for under Sec. 53 of the Act, 1929, as from 6th May, 1930.

(2) The total Grant for the First Fixed Grant period was—

Loss of rates and grants . . . .	£5,377,000
Additional sum . . . .	750,000
	<u>£6,127,000</u>

(3) The Additional sum was increased to £850,000 for the Second Fixed Grant Period.

(4) Having regard to all the circumstances it was decided not to set-off the unemployment contributions and trunk road costs and to increase the total grant by the net sum of £600,000, making a total of £6,827,000 for the Third Fixed Grant period.

(5) The density factor receives a greater consideration in Scotland than in England.

##### (6) PAYMENT OUT OF ROAD FUND.

(a) A sum equal to the certified amount of discontinued road grants for the standard year; and

(b) in respect of each year in the first fixed grant period, eleven ninety-first parts of the sum of three million pounds; and in respect of each year of each following fixed grant period.

(7) APPORTIONMENT OF GENERAL EXCHEQUER CONTRIBUTIONS. This is provided by Sec. 55 of the Act of 1929, with grants to counties; large burghs; and small burghs, etc. (Sec. 56.)

## II. THE BORROWING POWERS OF SCOTTISH LOCAL AUTHORITIES

The position of Scottish local authorities differs under the general law from that of the local authorities in England and Wales.

(1) SANCTION to borrow and maximum periods are specified within these Public Acts or Local Private Acts.

(a) Within these limits local authorities may generally proceed as they like in the matter of raising loans.

(b) The Act of 1929, Sec. 23, provides that any sums borrowed by a County or Town Council shall be borrowed upon the security of all funds, rates, and revenues of the Council.

(c) The Council shall not, without the consent of the Central Department, borrow money for the purpose of meeting any expenditure of a capital nature, unless the resolution to borrow has been agreed to by two-thirds of the members of the Council present and voting at the meeting at which such resolution is passed.

(2) MAXIMUM PERIODS OF REPAYMENT. Usually 30 to 33½ years, e.g. under the Burgh Police Acts, 1892 to 1903, but 80 years for land in some cases.

(3) PERMANENT LOCAL DEBT permitted in a few cases, e.g.—

(a) Old debts on the security of the Common Good.

(b) Annuities issued for a fixed number of years or taken over as part of the purchase price of commercial undertakings.

(4) TEMPORARY BORROWINGS.

(a) To meet deficiencies arising pending the collection of assessments.

(b) To afford relief to County and Town Councils of large burghs in respect of loans of the former Parish Councils under—

(i) Poor Law Emergency Provisions (Scotland) Act, 1921.

(ii) Local Government (Scotland) Act, 1929.

(5) MORTGAGES issued by local authorities in Scotland are trust securities, including Local Bonds under Housing (Scotland) Act, 1925, as confirmed by the Act 1929, Sec. 23 (1).

(6) SCOTLAND TRUSTEE SECURITIES. The law is codified in the Trust (Scotland) Act, 1921, and is given in detail in *Local Government of the United Kingdom* (Pitman).

## III SCOTTISH VALUATION AND RATING

1. SCOTTISH VALUATION is regulated by the Valuation (Scotland) Act, 1854, and subsequent statutes.

RATING is regulated by the Rating (Scotland) Act, 1926, which

amended the law with respect to rating, the Rating and Valuation (Apportionment) Act, 1928, and the Local Government (Scotland) Act, 1929.

*Rating Terms* differ in Scotland thus—

Hereditaments are known as Lands and Heritages.

Valuation Lists as Valuation Rolls.

Rate Books as Assessment Rolls.

Rates in Scottish Public Health Acts are termed Assessments.

(1) *Rating Authority*, as constituted by the Act of 1926, is—

(a) The Town Council of a burgh; and

(b) The County Council for other parts of a county.

(2) *Valuation Roll* is compiled in the form shown in *Local Government of the United Kingdom* (Pitman), in accordance with—

(a) The Rating (Scotland) Act, 1926, Sec. 14 (1), as amended by

(b) The Rating and Valuation (Apportionment) Act, 1928, Sec. 9 (3);

(c) The Local Government (Scotland) Act, 1929, Sec. 49 (1).

The Roll contains all lands and heritages, whether tenanted or untenantied.

(3) *Local Assessors* prepare the Valuation Roll in large burghs. It is permissible to appoint an Inland Revenue officer as a local assessor. If this is done—

(a) The valuation is conclusive for Imperial as well as local purposes; and

(b) The Crown pays the expenses of making up the Roll.

If the Government assessor be not appointed, these two provisions are, of course, not operative.

(4) *Supplementary Valuation Roll* may be made in respect of the limited number of cases in which a domestic water rate is leviable within a county district under the Public Health (Scotland) Amendment Act, 1891, in respect of agricultural subjects.

(5) Special provision must be made by the assessor to distinguish in the Valuation Roll subjects situated within the area of each District Council.

(6) *The Mode of Ascertaining Yearly Value* is similar to that obtaining in England, but generally it represents the actual rent paid, except—

(a) In case of a lease having an endurance of over 21 years, or, in the case of minerals, 31 years, the annual value is ascertained irrespective of the actual rent paid and the lessee is entered in the Roll as proprietor; and

(b) Where a "grassum" (equivalent to premium or fine in England) or other consideration in addition to rent is paid; such grassum or consideration must be added to the rent paid and

(c) Where no rent is payable, e.g. an owner occupier, the

methods of ascertaining the valuation vary according to circumstance, and may be any one of the following—

(i) By comparison with other let subjects possessing similar elements of value.

(ii) By the "Contractor's Principle," i.e. an estimate based on the actual cost. This is not a very satisfactory method, but is employed for valuing public buildings.

(iii) By the "Revenue Principle," i.e. assuming a rent equivalent to gross revenue less outgoings. This method is followed in dealing with railways, tramways, gas works, electricity works, etc.

In these cases an estimate is made of the rent which would be payable under normal conditions.

(7) *Procedure in Preparing Valuation Roll.*

(a) Prior to 15th May the assessor issues a schedule to every owner of property, requiring him within fourteen days to complete and return it, giving particulars of all properties, with names of tenants and occupiers and the rents or valuations; penalty for failure to make the return, £20; penalty for false return, £50.

(b) Assessor appointed by the County or Town Council annually makes up Roll on or before 15th August.

(c) By 25th August, assessor furnishes each person on Roll with copy of entry relating to such person's valuation, unless previous entry is not altered.

(d) Assessor retains the Roll until 8th September; up to this date assessor may correct any errors in the Roll.

(e) Then he transmits it to the County or Town Clerk.

(f) Thereafter it is open to public inspection.

(g) Appeals are heard and determined by 30th September, and the necessary alterations, consequent upon appeals, made in the Roll.

(h) Roll is transmitted periodically to the General Register House in Edinburgh for preservation.

(i) The Roll remains in force from Whit-Sunday to Whit-Sunday following date of its completion.

(j) Special regulations apply to railway valuations.

(8) *Rating and Valuation (Apportionment) Act, 1928.* Applies to Scotland as to England, with certain necessary modifications.

(a) Under the Act of 1928, industrial lands and heritages are defined, Sec. 3 (1), as including—subject to certain limiting provisions—lands and heritages occupied and used as a factory or workshop within the meaning of the Factory and Workshops Acts.

(b) Such include a factory or workshop where the only person working therein is the owner or occupier.

(c) Under Sec. 46 (2) of the Act of 1929, the following subjects are to be treated as industrial lands and heritages occupied and used wholly for industrial purposes—

(i) Salmon fishings, so far as the right thereto is exercised by net or cruive, where such right of fishing by net or cruive is regularly exercised throughout that part of the year during which that method of fishing is permitted by law, and where no revenue is derived by the owner or occupier from any other method of fishing in the said part of the year; and

(ii) Minerals which are let notwithstanding that they are not being worked at the time.

Under Sec. 9 (12) of the Act of 1928, minerals that are being worked are to be treated as lands and heritages occupied as a mine, and are therefore within the definition of industrial lands and heritages. Accordingly, all minerals entering the Valuation Roll will now fall to be treated as industrial lands and heritages.

The Local Government (Scotland) Act, 1929, provides that the rateable value of agricultural land and heritages is the gross value reduced by 87½ per cent. The balance of 12½ per cent represents the rateable value of dwelling-houses on farms. (Sect. 44.)

(9) *Consolidated Rate* is provided by the Act of 1929. Every demand note in respect of the consolidated rate shall show the amount of the expenditure under each of the branches prescribed by the Secretary of State which is being defrayed out of the said rate and grants under Part III of this Act.

(10) *The Burgh Fund* includes all moneys raised by the consolidated rate and all other revenues receivable by the rating authorities, which, in the case of a burgh, are paid into that Fund.

(11) *Contributions by Burghs to County Councils.*

(a) County Council annually, not later than 15th July, to send requisition to the Town Council of each burgh within the county.

(b) Town Council to pay over to the County Council—

(i) at such intervals, and

(ii) by such instalments as are agreed upon, or, failing agreement, as Secretary of State may determine;

(iii) last instalment shall be payable not later than the first day of May.

(12) *Owners' and Occupiers' Rates.*

In Scotland, whilst certain rates fall, as in England and Wales, entirely upon occupiers e.g. the Burgh General Rate (Fire prevention, lighting, watching, etc.) and the Public Libraries Rate, others fall equally on owners and occupiers, e.g. Public Health, General Improvements, Streets, Sewers, Water, etc.

#### IV. SCOTTISH FINANCIAL ADMINISTRATION AND AUDIT

(1) ACCOUNTS in Scotland are under greater central control and more minute prescription of detail than in England. Detailed financial statements are prescribed, which require a uniform system of accountancy to complete the annual statements, which are made up to Whit-Sunday (15th May).

The special provisions relating to each authority are as follows—

(a) *County Councils* under the Local Government (Scotland) Act, 1889, Sec. 68, have a form of abstract of accounts prescribed by the Secretary of State, as amended by the Local Government (Scotland) Act, 1929.

(b) *Cities and Burghs* under the Town Councils (Scotland) Act, 1900, Secs. 91-93, as amended by the Local Government (Scotland) Act, 1929.

(c) *District Councils* under the Local Government (Scotland) Act, 1929, Sec. 26 (4), which incorporates Sec. 68 of the Act of 1889, relating to Accounts of County Councils with the necessary modification.

(d) *Education Authorities* under the Education (Scotland) Act, 1918, Sec. 23.

(2) AUDIT. The audit of the accounts of County Councils, Town Councils, and District Councils is provided for by the Act of 1929, Secs. 15 and 16, the Third Schedule to the Act; and the Local Government Audit Regulations (Scotland), 1931.

These provisions are summarized in *Local Government of the United Kingdom* (Pitman).

## CHAPTER XXXIII

### NORTHERN IRELAND

NORTHERN Ireland was established as a self-governing unit of the United Kingdom in pursuance of the Government of Ireland Act, 1920.

It comprises the six Parliamentary counties of Antrim, Armagh, Down, Fermanagh, Londonderry, and Tyrone; two Parliamentary Boroughs, *viz.* Belfast and Londonderry; two Boroughs, *viz.* Bangor and Coleraine; thirty-one Urban Districts and thirty-two Rural Districts.

For the purposes of central government a Parliament comprising a House of Commons and a Senate has been established, with a Government consisting of a Prime Minister, Minister of Finance, Minister of Home Affairs, Minister of Labour, Minister of Agriculture, Minister of Education, and Minister of Commerce.

THE MINISTER OF HOME AFFAIRS is responsible for services relating to local government, roads, and road traffic, railways, police, prisons, justice, law and order, and ancillary questions. In other words, the duties attached to the Department over which the Minister of Home Affairs presides correspond to the duties which are performed by the following Imperial Departments, *viz.*, the Home Office, Ministry of Health, and Ministry of Transport.

LOCAL GOVERNMENT. In so far as the administration of local government services is concerned, the system in Northern Ireland has not changed materially since the establishment of the Government of Northern Ireland, and, accordingly, remains much the same as the system which prevailed in England up to the passing of the Local Government Act, 1929, transferring the duties of Boards of Guardians, etc., to County Councils.

In other words, the machinery of local government is still vested in the Council of the County, County Borough, Borough, Urban District, Rural District, and Boards of Guardians with their various committees.

#### POWERS AND DUTIES OF COUNTY COUNCILS.

- (1) Manage administrative and financial business of the county.
- (2) Making, levying, collecting, and recovering of poor rate, other than for a county borough, borough, or urban district.
- (3) Maintain lunatic poor, and county infirmaries and fever hospitals.
- (4) Construct and maintain roads and other public works.

- (5) Registration of, and issue of licences for, motor-cars and road locomotives ; and issue of motor drivers' licences.
- (6) Granting permission for holding motor races.
- (7) Local education administration.
- (8) Provision of reformatory and industrial schools.
- (9) Provision of schemes for maternity and child welfare ; for medical examination of school children ; for agricultural instruction ; for treatment of tuberculosis and venereal diseases ; and the maintenance of public libraries.

**COUNTY BOROUGH COUNCILS.** County Borough Councils have all the powers and duties of a County Council, as well as those of an Urban District Council ; they are entirely independent of County Councils.

**BOROUGH COUNCILS.** Powers and duties same as those of an Urban District Council, in addition to further powers and privileges under the Municipal Corporations Act, 1840.

#### **URBAN DISTRICT COUNCILS.**

- (1) Sole rating authority in their area ; paying to County Council upon demand the amount assessed on the district.
- (2) Road authority for all roads within their area.
- (3) Sanitary authority, with power to provide hospitals and to afford maintenance to poor persons in their area in hospitals not controlled by them.
- (4) Power to provide housing accommodation for the working classes.
- (5) Provision of parks and pleasure grounds.
- (6) Power to make by-laws for the control of fairs and markets.
- (7) Power to supply gas or electricity and public lighting.

#### **RURAL DISTRICT COUNCILS.**

- (1) Sanitary authority.
- (2) Certain powers to formulate proposals for the construction and maintenance of Class III roads.
- (3) No power to levy rates, expenses being met by precept upon the County Council.
- (4) Provision of hospitals and provision for maintenance of poor persons from their area in hospitals not controlled by them.
- (5) Provision of houses for agricultural labourers.
- (6) Make by-laws in respect of buildings, ferries, and other matters.

#### **BOARDS OF GUARDIANS.**

- (1) Administer poor relief, medical relief, and vaccination.
- (2) Administer the Children Act, 1908, in so far as it relates to children being placed out with nurse.

### Finance

*Grants-in-aid.* As in Great Britain, Government grants-in-aid are made through the Ministry of Home Affairs in relief of expenditure on various local services which have something more than a local characteristic and value.

Percentage grants are made in respect of the treatment of tuberculosis and special diseases, welfare of the blind, child welfare, maintenance of the lunatic poor, poor relief, and public health services generally.

With regard to maintenance and improvement of roads, the system of State assistance in Northern Ireland resembles that in operation in Great Britain. In Northern Ireland roads have been classified into three Classes, Class I roads being the primary trunk roads, Class II roads being the roads of secondary importance, and Class III being the purely local or district roads.

In connection with expenditure on the various classes of roads, grants are made at prescribed rates from the Road Fund, which fund—as in England—is built up and maintained out of the proceeds of Excise Licence Duty on vehicles.

The special grants made since 1923 from Government sources towards the encouragement of building houses for the working classes, erected either by local authorities or by private operators in rural and urban areas, ceased to be payable as from the 31st March, 1937. Grants are still available from Government Funds in relief of expenditure by Rural District Councils on the provision of labourers' cottages.

In addition to the above general system of grants, the principle of derating has also been adopted in Northern Ireland, under which agricultural land has been wholly derated and industrial and freight transport hereditaments partly derated.

### Important Legislation affecting Local Government Services

1. DRAINAGE. The Drainage Act of 1925 constituted for the first time the County Councils of Northern Ireland as Drainage Authorities within their areas, and enabled them to formulate schemes for carrying out drainage works and charging the whole or a portion of the cost against the owners of the lands which are benefited thereby. The Drainage Act, 1929, simplified the procedure in carrying out such works. Further Acts were passed in 1931 and 1933. A further Act in 1935 provided for the amendment of Drainage Schemes.

2. EDUCATION. The Education Act, 1923, established in Northern Ireland for the first time the principle of establishing local authorities as Education Authorities, and vesting in these bodies or in Education Committees acting for them various types of schools. Further Acts passed in 1930 and 1935 amended the provisions for local management.

3. **HOUSING.** Since 1923, various Acts have been passed with the object of encouraging local authorities and private builders to erect houses of a prescribed type for the accommodation of the working classes. It was estimated at the time of the establishment of the Government of Northern Ireland that there was a shortage of approximately 20,000 houses. With the object of remedying this evil, the Acts referred to above provided for lump sum grants of varying amounts, payable to the builders on the satisfactory completion of the houses, with a corresponding power to local authorities to supplement the Government grants.

With the aid of such assistance, 34,312 houses were built and it was felt that the acute housing shortage had been remedied. Accordingly, the grants payable under the Housing Acts ceased to operate as from the 31st March, 1937.

4. **INTOXICATING LIQUOR** Acts, 1923 and 1927, make provision for the closing of certain premises for the sale of intoxicating liquor on Sundays and Christmas Day.

5. **JURY LAWS AMENDMENT** Act, 1926, provides a more equitable basis of service for jurors.

6. **ELECTIONS.** Several Acts dealing with Local Government Elections and Representation, etc., have been passed since the establishment of the Government of Northern Ireland.

(a) An Act passed in 1922 abolished the principle of Proportional Representation for Local Government Elections.

(b) A further Act passed in 1923 prescribed a minimum valuation of £5 in the case of land or premises, other than dwelling-houses, as a qualification for an elector.

(c) The Representation of the People Act, 1928,

(i) assimilated the Parliamentary and Local Government Franchise of men and women; and introduced

(ii) the principle of according to Limited Liability Companies votes at Local Government Elections; and

(iii) an over-riding qualification of Northern Irish birth or continuous residence in the United Kingdom.

(d) An Act passed in 1934 increased the three years residence qualification to seven years.

7. **MOTOR TRAFFIC.** In 1926 an Act was passed which transformed the whole system in regard to motor traffic in Northern Ireland. The Act amended the Motor Car Act of 1903 and other analogous statutes in certain respects, i.e. by abolishing the old 20-mile an hour speed limit; by requiring applicants for motor licences to make declarations of physical fitness; by imposing heavier penalties on the more serious offences of (a) dangerous driving, and (b) drunkenness in charge of a car; and by reducing the penalties for technical and minor offences. In addition, the Act established a central system and scheme of licensing and regulation

of public service vehicles and their drivers and conductors. Under this Act all operators of public service vehicles have to comply with certain conditions as to fares, routes, and services, and have also to keep their vehicles in a fit state of repair.

By a further Act passed in 1929 the principle of regulating public service vehicle traffic was extended as regards the prescription of roads, the arranging of time-tables, and the fixing of fares.

The Motor Vehicles Road Traffic Act, 1930, prohibits the use of motor-cars unless there is in force in relation thereto a policy of insurance against third party risks.

Another Act passed in 1934 amended the previous Acts, instituted a system of licensing goods vehicles and brought the law relating to licensing up-to-date.

The Road and Railway Transport Act, 1935, effected an important change by the establishment of a Road Transport Board, to operate passenger and goods vehicles for hire.

8. ROADS AND ROADS DEVELOPMENT. Two important Acts, i.e. the Roads Act of 1923 and the Roads Improvement Act of 1928, have been passed by the Parliament of Northern Ireland with the object of improving the road systems in the Province.

Under the Act of 1923, Urban District Councils were constituted as independent road authorities.

The Act of 1928 provided for simplifying the procedure for the acquisition of land by road authorities in cases where it was necessary to widen roads or round-off corners. Powers were also accorded road authorities to have hedges cut in cases where they obstruct the view; also to prescribe building lines; to provide parking places and to regulate the erection of petrol pumps on the road side; to restrict the placing of beams, rails, etc., over streets.

So far as roads constructed by the authorities are concerned, an Act of 1937 brought the Development and Road Improvement Funds Act, 1909, up to date, and simplified the procedure for acquiring land compulsorily.

9. NATIONAL HEALTH INSURANCE is administered by the Ministry of Labour for Northern Ireland. The Acts, 1924-1932, follow the Acts in force in Great Britain. The National Health Insurance and Contributory Pensions Act, 1935, of the United Kingdom applies to Northern Ireland.

10. OLD AGE PENSIONS, under the provisions of the Acts 1908, to 1927, and the Contributory Pensions Acts, 1925 to 1935, are substantially the same as those operative in Great Britain.

11. ROYAL ULSTER CONSTABULARY. The Constabulary Act, 1922, made provision for the establishment, management, and control of this Force.

12. SUMMARY JURISDICTION and Criminal Justice Act (N.I.), 1935, amends the law relating to the powers and duties of Justices.

13. TRADE BOARDS, under the Trade Boards Act, 1923, embodying the recommendations of the Dufferin Advisory Committee.

14. UNEMPLOYMENT INSURANCE AND UNEMPLOYMENT ASSISTANCE, by amending Acts passed between 1922 and 1935, has been maintained on a basis similar to that of the British scheme.

15. RENT RESTRICTIONS. Several Acts have been passed, the general effect of which has been that houses with valuations exceeding £52 became decontrolled on the 1st November, 1926; houses with valuations between £26 and £52 became decontrolled on the 1st May, 1928, while houses with valuations of £26 and under will not become decontrolled until 1st May, 1940.

Some houses between £8 and £26 valuation became decontrolled between 9th June, 1925, and 12th April, 1932, if they came into the landlord's possession.

16. DERATING. Derating is provided by the Local Government (Rating and Finance) Act (Northern Ireland), 1929, and the Local Government (Finance) Act (N.I.), 1936.

#### Proposals for Local Government Reform

Shortly after the establishment of the Government of Northern Ireland a Commission was set up to inquire into the whole system of local government with the object of submitting recommendations as to reforming the system in such a way as to evolve greater efficiency, co-operation, and economy.

The Commission submitted a Report to Parliament in October, 1927, and its recommendations involved generally

(1) the abolition of unions and boards of guardians, and

(2) the reorganization of the Poor Relief Services on a county basis, under County Council control, with the county as the area of charge;

(3) the Public Health Services should be reorganized and co-ordinated on a county basis, with county Medical Officers of Health in each county.

The recommendations made by the Commission had to be reconsidered in the light of the introduction of the principle of Derating and of the principle of Medical Benefits which were recently introduced, and as it has become apparent that the reorganization of the Local Government Services on the lines suggested by the Commission might tend to increase expenditure in certain directions, it has been decided, in view of the present condition of financial stringency, to defer taking any steps in the direction of a comprehensive reorganization of the system.

The Local Government Act (N.I.), 1934, contained provisions relating to the above recommendations.

## CHAPTER XXXIV

### WAR CHARITIES AND PENSIONS

#### 1. WAR CHARITIES ACT, 1916.

This Act was the immediate outcome of a special committee appointed in April, 1916, by the Home Secretary, "To consider representations which have been made in regard to the promotion and management of charitable funds for objects connected with the war, and to advise whether any measures should be taken to secure better control or supervision of such funds in the public interest."

(1) The Act provides that it shall not be lawful to make any appeal to the public for donations or subscriptions to any war charity unless the charity is registered under this Act.

##### (2) The registration authority—

(a) In the City of London is the Mayor, Aldermen, and Commons of the City of London in common council assembled.

(b) In a municipal borough or urban district is the Council of the borough or district;

(c) elsewhere, is the County Council;

and any such Council may act through a committee which may comprise persons (including women) who are not members of the Council.

##### (3) Charities registered under the Act shall—

(a) Be administered by a committee or other body of not less than three persons.

(b) Keep proper books of accounts, audited at such intervals as may be prescribed.

(c) Keep separate accounts at such bank or banks as may be specified.

(d) Furnish such particulars as may be required to either the registration authority or the Charity Commissioners, and keep books of accounts open to inspection.

(4) The Charity Commissioners may make regulations respecting the above matters.

2. THE BLIND PERSONS ACT, 1920, extends compulsory registration to all charities for the blind.

3. THE CHARITABLE TRUSTS ACT, 1925, makes the official trustees of charitable funds a body corporate, with an official seal which must be officially and judicially noticed.

#### 4. WAR PENSIONS ACTS.

THE LEGISLATION is contained in the Naval and Military War Pensions, etc., Act, 1915, as amended by the Naval and Military War Pensions, etc., Act, 1916, Naval and Military War Pensions, etc. (Transfer of Powers) Act, 1917, and the Naval and Military War Pensions, etc. (Administrative Expenses), Act, 1917, and the War Pensions Act, 1921.

(1) *Objects.* For purposes relating to pensions and grants and allowances made in respect of the war to officers and men, their wives, widows, children, and other dependants, and the care of officers and men disabled.

(2) *Central Administration* was transferred to the Ministry of Pensions as from 15th February, 1917, in accordance with the Ministry of Pensions Act, 1916. The country is now divided into regional areas with Directors for the several branches, *viz.*—

- (a) Training.
- (b) Supplementary Grants.
- (c) Treatment.
- (d) Care of Orphan children.

(3) *The Constitution of Local War Pensions Committees* is provided for under a scheme framed by the central authority under the War Pensions Act, 1921. The committee so established shall not exceed 25 members, appointed by the Minister, and the scheme shall provide for the inclusion of representatives of—

- (a) Disabled men who have been discharged during the war. } not less than one-quarter
- (b) Women in receipt of pensions arising out of service during the war. } than one-quarter
- (c) Such local authorities whose districts are situated in the area.
- (d) Employers and workmen in industry in equal numbers. } one-fifth
- (e) Voluntary associations engaged in the care of ex-service men and their families in the area.

Not less than four members of the committee shall be women.

(4) *Functions of Local War Pensions Committees.* The functions of the committee as provided by the 1921 Act are—

- (a) To consider and make recommendations as to the administration of war pensions ;
- (b) To receive reports from officers as to the state and progress of applications ;
- (c) To hear and consider complaints by persons in receipt of pensions and to make representations to the Minister ;
- (d) To inquire into any matter referred to them by the Minister ;

- (e) To make arrangements for the distribution of supplementary grants;
- (f) To consider applications for grants from departments, bodies or associations;
- (g) To perform duties in relation to children for whom the Minister is responsible;
- (h) To take steps to secure co-operation of voluntary workers;
- (i) To perform such other duties as the Minister may by regulation prescribe.

The system is a very complicated one, too detailed to be dealt with fully, but the following points may be useful as a general guide to the subject.

(5) *Pensions for Men* are granted as follows—

- (a) Disablement Pensions and Allowances or Gratuities to men who come within one of the following classes—

(1) Discharged as Medically Unfit for further service or while suffering impairment of health attributable to or aggravated by service during the Great War.

(2) If, after demobilization or discharge, he is suffering from a disablement which is certified as attributable to or aggravated by his service.

(b) Alternative Pensions are provided to meet the case of a man whose pre-war earnings (with the addition of 60 per cent) were higher than his pension and allowances together with the average earnings of which the man is still capable. If granted, it is in substitution for the Disablement Pension and allowances for wife and children.

(6) *Pensions for Widows and Dependants of Men.*

(a) **WIDOWS' FLAT-RATE PENSIONS.** Widows' pensions are granted under three different conditions enumerated in the Articles of the Royal Warrant.

(b) **WIDOWS' ALTERNATIVE PENSIONS.** A Widow's Alternative Pension is a pension based on her husband's pre-war earnings, and where granted is in substitution for the pension and children's allowance awarded under Article 11 of the Royal Warrant.

(c) **PENSIONS FOR MOTHERLESS AND ILLEGITIMATE CHILDREN.** A pension may be granted where any child of a man who died is or becomes motherless, or has been removed from the control of its mother.

(d) **SEPARATED WIVES.** A wife who was separated from her husband and would otherwise have been entitled to a pension as widow may be granted a pension equal to the amount due to her under a separation order, or otherwise paid by her husband.

(e) UNMARRIED WIVES. Any woman who has lived as his wife with a man, who died in the circumstances similar to (b), may be granted a pension if she was wholly or substantially dependent on that man, and if she has been drawing or has been eligible for separation allowance as for a wife.

(f) PARENTS. "Parent" includes a grand-parent, or other person who has been in the place of a parent to the man, and has wholly or mainly supported him for not less than one year at some time before the commencement of the war.

(g) OTHER DEPENDANTS. Pensions are granted to dependants other than parents and those mentioned above only where the dependant is wholly or partially incapable of self-support and is in pecuniary need.

Under the War Pensions Act, 1921, the Minister may, on the application of any person in receipt of a pension, commute any part of the pension by the payment of a capital sum. The War Pensions Act, 1921, limits the time for making claims to pensions in respect of disablement to seven years after the date on which the claimant was discharged or the date fixed for the termination of the war, whichever date is the earlier.

(7) *Medical Services.*

(a) ORGANIZATION. The following Medical Boards exist—

(1) Medical Discharge Boards; (2) Medical Resurvey Boards; (3) Medical Appeal Boards. Local Committees may send men to Medical Referees who have the duty of examining and certifying men as to treatment, training, degree of disablement, extent of increase of disablement and physical condition.

(b) TREATMENT. Treatment is available where a claim for pension has already been decided by the Ministry for a man suffering from a disablement attributable to or aggravated by service.

(c) TRAINING. Training is provided under normal conditions by the Ministry of Labour or the Ministry of Agriculture and Fisheries.

(8). OFFICERS have now been taken over by the Minister of Pensions in accordance with the War Pensions Act, 1921.

## CHAPTER XXXV

### OLD AGE PENSIONS

#### (a) ADMINISTRATION

1. **LEGISLATION** was introduced by the Old Age Pensions Act, 1908. It was amended in 1911, 1919, and 1924. It is now consolidated in the Old Age Pensions Act, 1936, incorporating also Section 1 of the Blind Persons Act, 1920.

2. **CENTRAL PENSION AUTHORITY** is the Ministry of Health acting through the Poor Law, Old Age Pensions, Superannuation, etc., Division.

#### 3. LOCAL PENSION COMMITTEE.

(1) Appointed by the council of every—

(a) Borough with a population of 20,000 according to the last published census;

(b) Urban district with a population of 20,000 according to the last published census.

(c) County, excluding the area of such borough or urban district.

(2) The members of such Committee are not necessarily members of the council, and women may be members. Number not less than seven or more than number of members of the council, as decided by them. Quorum not less than three.

(3) Term of office three years, or such less time as the council decide. Sub-committees may be appointed.

(4) Clerk of the Committee to be a fit person appointed by the Committee, to hold office during their pleasure. Remuneration by scale fixed by the Treasury.

4. **PENSION OFFICERS** are appointed by the Treasury and are usually in the service of the Board of Customs and Excise.

#### (b) NON-CONTRIBUTORY OLD-AGE PENSIONS

1. **QUALIFICATIONS FOR PENSION** are that the person must satisfy the pension authorities that he has—

(1) Attained the age of 70; in the case of a blind person 40.

(2) For at least ten years up to date of the receipt of any sum on account of a pension been a British subject. The condition as to nationality shall not be required to be fulfilled in the case of a woman who satisfies the pension authorities that she would have fulfilled the conditions but for her marriage with an alien.

(3) Been resident in the United Kingdom for an aggregate period—

(a) if a natural born British subject, for at least twelve years in all since attaining the age of 50 years;

(b) if he is not a natural-born British subject, for an aggregate period of twenty years in all.

“Residence” means actual presence for the prescribed number of years in the aggregate.

For the purpose of computing the years of residence in the United Kingdom the following are included—

(a) Employment in the service of the Crown, or as the wife or servant of a person in any service remunerated by the Crown.

(b) Any periods spent in the Channel Islands or the Isle of Man by a person resident in the United Kingdom.

(c) Periods spent abroad while maintaining or assisting dependents in the United Kingdom.

(d) Service on board a vessel registered in the United Kingdom.

(e) Periods of temporary absence, not exceeding three months in duration at any one time, shall be counted as periods of residence in the United Kingdom if throughout absence home was in the United Kingdom.

(4) The Person must satisfy the pension authorities that his yearly means as calculated under this Act do not exceed £49 17s. 6d.

## 2. DISQUALIFICATION attaches to a person—

(a) While he is an inmate of any workhouse or poor law institution (other than for medical or surgical treatment).

(b) Detained in a mental hospital under the Lunacy and Mental Treatment Acts.

(c) While serving a term of imprisonment without the option of a fine.

## 3. PROCEDURE.

(1) Form to be obtained from any local Post Office, filled up by claimant and sent to local Pension Officer.

(2) Pension Officer will investigate and forward form to Local Pension Committee with report.

(3) Clerk to Committee to arrange meeting within seven days and claim allowed forthwith.

(4) In case of objection, claim adjourned for meeting not more than a month after date of original meeting, and notice sent to claimant.

(5) At adjourned meeting Committee give decision, and send notice to Pension Officer and claimant.

## 4. PROOF OF AGE may be made by means of—

- (1) Certificate of birth; or
- (2) Certificate of baptism; or
- (3) Certificate of service in any of the forces of the Crown; or
- (4) Certificate of membership of any friendly or provident society or trade union; or
- (5) Certificate of marriage; or
- (6) Any other evidence which appears sufficient for the purpose such as an old entry in a Bible; or
- (7) If applicant can give particulars of the date and place of birth and the name of both parents, the Pension Officer is empowered to ask the Registrar-General to make a search for an entry of the birth free of charge.

## 5. APPEALS.

- (1) Notice of appeal to Ministry of Health within seven days after the date of the Decision of the Committee.
- (2) Appeal may be made by—
  - (a) Pension Officer;
  - (b) claimant or pensioner; or
  - (c) other person aggrieved.
- (3) Decision of Ministry is final.

## 6. AMOUNT OF PENSION which is payable through the Post Office are set out in the First Schedule to the Act—

- (1) Where the yearly means of the Pensioner or Claimant as calculated under the Acts—

	Per week
	s. d.
(a) Do not exceed £26 5s. . . . .	10 -
(b) Exceed £26 5s. but do not exceed £31 10s. . . . .	8 -
(c) Exceed £31 10s. but do not exceed £36 15s. . . . .	6 -
(d) Exceed £36 15s. but do not exceed £42 . . . . .	4 -
(e) Exceed £42 but do not exceed £47 5s. . . . .	2 -
(f) Exceed £47 5s. but do not exceed £49 17s. 6d. . . . .	1 -
(g) Exceed £49 17s. 6d. . . . .	nil.

- (2) Where the combined yearly means of husband and wife, living together and both pensioners—

	Per week
	s. d.
(a) Does not exceed £52 10s. . . . .	20 -
(b) Exceeds £52 10s. but does not exceed £63 . . . . .	16 -
(c) Exceeds £63 but does not exceed £73 10s. . . . .	12 -
(d) Exceeds £73 10s. but does not exceed £84 . . . . .	8 -
(e) Exceeds £84 but does not exceed £94 10s. . . . .	4 -
(f) Exceeds £94 10s. but does not exceed £99 15s. . . . .	2 -
(g) Exceeds £99 15s. . . . .	nil.

### 7. CALCULATIONS OF MEANS.

(1) The Old Age Pension Act, 1919, introduced the present method of calculating annual means from capital—

(a) The yearly value of property shall be calculated as follows, viz.—

(i) The first £25 of the capital value of the property shall be excluded; and

(ii) the yearly value of the next £375 of the capital value shall be taken to be one-twentieth part of the capital value; and

(iii) the yearly value of so much of the capital value as exceeds the sum of £400 shall be taken to be one-tenth part of the capital value.

(b) No account shall be taken of any amounts received during a period of not more than three months in any year by a person or by the husband or wife of a person under a medical certificate as sickness benefit from a friendly society or trade union or under the Insurance Acts.

(c) No account shall be taken of the furniture and personal effects of a person whatever the value thereof may be.

(d) Where a husband is separated from his wife, any sum paid by him to her under a separation shall be deducted in calculating his means.

(2) In calculating the means of a married couple living together in the same house, the means shall be taken to be half the total means of the couple.

(3) The Old Age Pension Act, 1924, provides that means derived from any sources other than earnings are excluded from calculation in so far as they do not exceed £39 in the case of a single person or £78 per annum in the case of a married couple.

8. THE BLIND PENSIONS ACT, 1938, provided that the statutory age for the receipt of old age pension in the case of a person who is "so blind as to be unable to perform any work for which eyesight is essential," is reduced to 40 years.

Blind persons qualified to receive a contributory pension may receive two pensions at the age of 65, but the non-contributory pension ceases to be paid at the age of 70.

9. FINANCE. The sums required for the payment of Old Age Pensions under these Acts are paid out of money provided by Parliament.

(c) THE WIDOWS', ORPHANS', AND OLD AGE CONTRIBUTORY PENSIONS

1. LEGISLATION was introduced by the Widows', Orphans,' and Old Age Contributory Pensions Act, 1925. It was amended in 1929 and 1931 by Acts of that title; and also by the National Health Insurance and Contributory Pensions Acts, 1932 and 1935. It is now consolidated in the Widows,' Orphans,' and Old Age Contributory Pensions Act, 1936.

2. OBJECTS OF THE ACT ARE THE PROVISION OF—

- (a) Pensions to widows of insured persons.
- (b) Allowances to widows of insured men in respect of children.
- (c) Pensions for orphans of insured men and women.
- (d) Pensions for insured men and their wives, and for insured women upon attaining age 65.

The scheme was outlined by the Chancellor of the Exchequer in his Budget speech, April, 1925.

3. ADMINISTERED BY THE MINISTRY OF HEALTH, acting through the Poor Law, Old Age Pensions, Superannuation, etc., Division.

(a) Claims are made to the Minister, and persons have a right to appeal (except on certain points reserved for the Minister's discretion) to one or more referees selected from the panel appointed under regulations of the National Insurance Joint Committee.

(b) Pensions are paid weekly in advance through a Post Office selected by the pensioner.

(c) Approved societies will collect contributions and furnish information respecting payment of benefits.

(d) Certificates of births, deaths, and marriages of persons who are entitled to pensions, or from whom pension rights are derived under the scheme, may be obtained at a reduced fee.

4. INSURED PERSONS INCLUDE—

(1) All persons insured for the purposes of National Health Insurance.

(2) Certain persons who are exempt from National Health Insurance. (See paragraph 6.)

(3) Certain classes of persons who are by reason of their employment excepted therefrom. (See paragraph 5.)

(4) Widows in receipt of pensions can continue as insured persons while working.

The Government actuary estimates that the only class of employed persons who will be totally excepted is the Police Force.

*Low wage earners* contribute in the same circumstances as for Health Insurance. While the modified proportions of contributions by employers and employee respectively continue for health insurance, low wage earners are liable to contribute at the ordinary rates for pensions insurance.

#### 5. VOLUNTARY CONTRIBUTORS ARE ALL PERSONS—

- (a) Who at the commencement of the Act are voluntary contributors to Health Insurance if they gave notice before the 4th July, 1926, and on a form obtained from an approved society.
- (b) Who have been contributors under the Health Insurance Acts (as either employed or voluntary contributors) for two years at any time and have ceased to be contributors.
- (c) Uninsured man who marries insured woman on whose account at least 104 contributions have been paid may become a voluntary contributor.

#### 6. EXCEPTED PERSONS INCLUDE—

- (1) Persons other than manual workers, whose remuneration exceeds £250 a year. (Note. All manual workers must be insured, irrespective of earnings.)
- (2) Teachers within the provisions of the Superannuation Acts.
- (3) Pupil or student teachers employed in elementary schools.
- (4) Apprentices without money payment.
- (5) Persons learning agriculture without money payment.
- (6) Persons employed by their parents without payment, and persons fully maintained by their employer without money payment.
- (7) Wives employed by husbands and *vice versa*.
- (8) Persons casually employed other than for the employer's trade or business, or for the purposes of a game or recreation.
- (9) An agent who is paid only by commission, fees, or shares in profits.
- (10) Persons whose employment is of a class which has been specified in a Special Order as being not a principal means of livelihood.

#### 7. EXEMPT PERSONS are those who hold a certificate of the Minister of Health exempting them from the payment of contributions under the National Health Insurance Act.

In such cases—

- (a) The employer's share of the contributions remain payable.
- (b) If a man, he pays a reduced pension contribution for Widows' or Orphans' Pensions.
- (c) If a woman, no contribution is payable by her.

Until 2nd January, 1928, no contributions were payable after an employed person became 70 years of age, either by the employer or the worker. On 2nd January, 1928, a change was made;

an employed person on attaining the age of 65 is now exempted from contribution, but the employer is still liable to contribute at the ordinary rate of contribution.

#### 8. FUTURE CONTRIBUTIONS—

##### (1) From 1st January, 1936—

(a) The ordinary contributions were increased as follows—  
Men 2d., Women 1d. per week; borne equally by employer and employee.

(b) Contribution in respect of persons over 65 were increased as follows—

Men 1d., Women  $\frac{1}{2}$ d. per week; borne wholly by employer.

(2) Further increases at the same rates as above will also operate—

(a) On 1st January, 1946.

(b) On 1st January, 1956.

Benefits are of three classes—

I. Widows' Pensions and Additional Allowances.

II. Orphans' Pensions.

III. Old Age Contributory Pensions.

#### I. WIDOWS' PENSIONS AND ADDITIONAL ALLOWANCES

(1) *Insured husband dies after 4th January, 1926, under 70 years of age*, Widow receives 10s. per week.

This pension ceases when she—

(a) Becomes 70, when she receives the Old Age Pension, without being subject to the present test as to means, residence, and nationality.

(b) Remarries.

(2) *Additional Allowances for children*—

(a) Eldest child under 14 years of age, 5s. per week.

(b) Each younger child, 3s. per week.

Allowances cease as each child becomes 14, when the allowance for the next youngest child is increased to 5s. Allowances in respect of children and orphans continue up to 16 if child is under full-time instruction in a day school.

(3) *If married after 29th April, 1925, and husband was then over 60 years of age*: Widow gets no pension unless—

(a) She was already getting a pension before she married him; or

(b) If he does not die until at least three years after the marriage; or

(c) There are or have been one or more children.

(4) *If husband died before 4th January, 1926, being insured and eligible*: Widows receive a pension and "additional allowances" if—

(a) She has not remarried; and

(b) She had one or more children under 14 living on 4th January, 1926. This child (or children) may be the child of the marriage of either parent; and

(c) She had been continuously resident in Great Britain for at least two years prior to 4th January, 1926.

(In this case the widow's pension ceases *six months after the youngest child becomes 14.*)

(5) *If husband was over 70 on 4th January, 1926, having previously been under the National Health Insurance Act:* Widow receives a pension subject to the same two conditions (a) and (b) in the last paragraph; similarly, the pension ceases when the youngest child becomes 14.

(6) *Conditions of Benefit:* For a widow to be eligible to receive a pension—

(i) Husband must have been insured for 104 weeks and paid 104 contributions;

(ii) If the husband has been insured for four years or more, he must have paid, or been "deemed . . . to have . . . paid" for an average of twenty-six weeks in each of the last three years.

(iii) Husband must have been continuously resident in Great Britain for two years immediately before his death.

(If husband died before 4th January, 1926, condition (3) applies to the widow and not the husband.)

(iv) Husband's last permanent employment must have been in Great Britain.

## II. ORPHANS' PENSIONS

A widow in receipt of a pension from the Ministry of Pensions is normally not entitled to benefit under this Act.

(1) An orphan is a child under 14 who, after 4th January, 1926, has lost an insured father (if married or a widower) or an insured mother. Children of a widow who is receiving a "widow's pension" cannot receive "orphans' pensions"; the widow receiving "additional allowances" for them.

(2) "Orphans' Pensions" are 7s. 6d. per week; ceasing at 14 years of age, but continuing to not exceeding 16 where the child is under full-time instruction in a day school.

(3) If father or mother died before 4th January, 1926, an orphan's pension is payable, if parent was insured under the National Health Insurance Act for the necessary two years.

(4) If the mother dies before the father, and she would have been eligible for the widow's pension if she had died immediately after him, the child receives an orphan's pension. In this case "orphans' pensions," like the "widows' pension," are benefits payable in respect of the father's insurance.

(5) If father was over 70 on the 4th January, 1926, or is in receipt of an Old Age Pension, or would have been eligible to receive one if he had lived until the 2nd July, 1926, and died after that date, the children receive orphans' pensions.

### III. OLD AGE CONTRIBUTORY PENSIONS

#### (a) *Contributory Pensions at 65.*

(1) Since 2nd January, 1928, insured men and insured women, between 65 and 70 years of age, receive 10s. per week.

(2) The wives of insured men will receive 10s. per week between 65 and 70 years of age. After age 70 the pensions continue payable under the Old Age Pensions Act, but without the usual tests as to means, residence, and nationality.

(3) *Conditions of Benefit.* Insured person must—

(i) Have been continuously insured for five years immediately prior to reaching the age of 65, or for five years prior to 2nd January, 1928, if over 65 on the 2nd January, 1928; and

(ii) Have paid 104 contributions prior to 4th January, 1926, since becoming insured; and

(iii) Have paid or been "deemed . . . to have . . . paid" an average of thirty-nine contributions for the last two years prior to reaching the age of 65.

(iv) If a man or woman has not been continuously insured for five years immediately prior to the age of 65, or prior to 2nd January, 1928, then he or she must wait until the five years of insurance have elapsed before receiving a contributory pension.

(v) If, not being included in (iv), a man or woman reached the age of 65 years before 2nd January, 1928, then must have paid or been "deemed to . . . to have . . . paid" an average of twenty-six contributions instead of thirty-nine referred to in (iii) where on attaining age 60 (or 55 if an insured woman) has been continuously insured for a period of ten years, or since 15th July, 1912, whichever is the shorter.

#### (b) *Unrestricted Old Age Pensions at 70.*

Men and women who—

(i) Reached the age of 70 before 2nd July, 1926, and were insured on the 2nd July, 1926, and have been continuously insured since 29th April, 1925; or

(ii) Reached the age of 70 before 2nd January, 1928, were insured when they became 70, and had then been continuously insured since 29th April, 1925—

Will receive an Old Age Pension of 10s. per week, without the usual tests as to means, residence and nationality.

A woman aged 70 before 2nd July, 1926, will also be entitled to an "unrestricted Old Age Pension" if she is—

(a) The wife or widow of an insured man who is or has been entitled to an existing (restricted) Old Age Pension, or to an unrestricted Old Age Pension under (a) or (b) above;

(b) The wife of a man who is receiving either a contributory or an unrestricted Old Age Pension (i.e. the husband may be only 65, but the wife must be 70);

(c) A widow who was 70 before the death of her husband if she would have been entitled to a widow's pension had she been younger;

(d) If a man marries after the 29th April, 1926, having at the date of marriage attained the age of 60, the wife cannot obtain a pension unless—

(i) She was receiving a widow's pension at the time of the marriage;

(ii) The marriage had lasted three years.

*Note.* A person is "deemed to be insured" up to at least six months after ceasing work, or paying contributions ("the 30th day of June or the 31st day of December, whichever first occurs next after the expiration of a period of six months," National Health Insurance Act, 1924).

9. SPECIAL PROVISIONS are made with respect to the naval, military, and the air services, and mercantile marine.

10. DISQUALIFICATIONS apply to pensions under this Act similarly to those which apply to Old Age Pensions. A widow is debarred from receiving a widow's pension (other than Children's Allowances) whilst she is cohabiting with a man as his wife.

11. OFFENDERS in respect to the Act are liable, on summary conviction, to three months' imprisonment.

12. FINANCES are provided by the contributions of employers and employees, together with a sum of £4,000,000 per annum provided by Parliament for ten years commencing 1st April, 1926. After the first ten years of the scheme this sum will be increased or decreased as Parliament may determine.

(d) WIDOWS' ORPHANS' AND OLD AGE CONTRIBUTORY PENSIONS (VOLUNTARY CONTRIBUTORS) ACT, 1937

(1) *Extends* facilities for widows', orphans', and old age pensions to—

- (a) Men whose total income does not exceed £400
- (b) Women " " " " £250

(2) *Age.* Applicants for admission before 3rd January, 1939, must be *under* the age of 55 years on 3rd January, 1938. On and after 3rd January, 1939, no person who is of the age of 40 (or more) will be able to become insured under this scheme.

(3) *Contributions.* Men who enter the scheme before 3rd January, 1939, will contribute 1s. 3d. a week if insured for all the pensions, or 10d. a week if insured for widows' and orphans' pensions only. Women will contribute 6d. a week. Those who enter the scheme later will contribute at varying rates according to their age at application.

(4) *Benefits* as described under (c) The Widows', Orphans' and Old Age Contributory Pensions *ante*.

## CHAPTER XXXVI

### THE RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACTS

1. THE FIRST Increase of Rent and Mortgage Interest (War Restrictions) Act, was passed in 1915, and amending Acts were passed in 1917, 1918, and 1919. The most important of these Acts expired in July, 1920. The Government appointed a Committee, of which Lord Salisbury was chairman, to consider and advise upon the matter. A comprehensive report was issued, the principal recommendations of which are included in—

2. THE RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920, which came into operation from 2nd July, 1920. It applies to England and Wales and, with modifications, to Scotland and Northern Ireland.

3. THE LOCAL AUTHORITY under the Acts is the Council of a county borough or a county district.

4. SECURITY OF TENURE is given to tenants of houses or part of a house, let as a separate dwelling. The rentals must be within certain specified standard rentals (see below). Houses erected after or in course of erection on 2nd April, 1919, and houses re-constructed into two or more self-contained flats or tenements are not covered by the Act.

The Act covered the period of three years ended 24th June, 1923, and in July, 1922, the Minister of Health appointed a Committee "To consider the operation of the Act and to advise what steps should be taken to continue or amend that Act."

The Act of 1920 has been extended and modified by amending Acts passed in 1923, 1925, 1933, and 1938. The important changes brought about by the Act of 1933 will be found in paragraph 15 below.

5. STANDARD RENT means the annual rent paid for a house or part of a house on 3rd August, 1914, or if built since, the rent for which it was first let. Where rateable value was higher than the rateable value is the standard rent. The Act applied originally in all cases where the rent or rateable value did not exceed

(a) in the Metropolitan Police District including therein the City of London . . . . .	£105
(b) in Scotland . . . . .	£90
(c) elsewhere . . . . .	£78

As described later, these limits have been considerably reduced.

A statement as to what is the Standard Rent can be demanded from the landlord, and must be stated on demand for increase.

6. INCREASES OF RENTS above the standard may be made for—

- (1) Interest on Improvements or Structural Alterations, 8 per cent after the Act, 6 per cent before the Act.
- (2) Increase of Rates above those of 3rd August, 1914, including water rents and charges.

(3) An increase equivalent to 15 per cent of net rent, but if previous Acts did not apply 5 per cent for the first year and 10 per cent for the second year.

(4) 25 per cent of net rent if landlord is responsible for repairs required for the purpose of keeping premises in tenantable repair.

The tenancy must be determined before any question of increasing the rent can arise, and no increase is permitted until after four clear weeks; any transfer of burden or liability to tenant is treated as an alteration unless rent is reduced accordingly.

EXAMPLE.—House let 3rd August, 1914, at 8s. per week, with an assessment of £10 and rates at 10s. in the £, landlord paying rates and being responsible for repairs—

	£	s.	d.
Standard Rent, 3rd August, 1914 . . . .	20	16	0
Less rates, viz. £10 at 10s. in the £ . . . .	5	0	0
Net Rent is therefore . . . .	<u>15</u>	<u>16</u>	<u>0</u>

	£	s.	d.
Standard Rent, 3rd August, 1914 . . . .	20	16	0
Rates on revised assessment of £15 . . . .	£	s.	d.
@ say 16s. 3d. in the £ . . . .	12	3	9
Less Rates 3rd August, 1914 . . . .	5	0	0
	<u>7</u>	<u>3</u>	<u>9</u>

Add Increase in Rates . . . .	7	3	9
Statutory increase 40% on £15 16s. . . .	6	6	5

Structural Alterations—

Before 2nd July, 1920, £20 16s. 8d. @ 6% . . . .	1	5	0
After 2nd July, 1920, £20 @ 8% . . . .	<u>1</u>	<u>12</u>	<u>0</u>
	<u>2</u>	<u>17</u>	<u>0</u>
5% of net rent of sub-tenancy of £10 . . . .		10	0
Total Rent . . . .	<u><u>£37</u></u>	<u><u>13</u></u>	<u><u>2</u></u>

Disputes as to the amount of increase of rent are to be determined by the County Court, whose decision shall be final.

7. NO ORDER FOR THE EJECTMENT of a tenant will be made unless—

- (1) Rent lawfully due has not been paid; or

(2) Any obligation of the tenancy has been broken or not performed ; or

(3) The tenant, or any person residing with him, has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers ; or

(4) The tenant or any person residing with him has been convicted of using the premises, or allowing them to be used, for an immoral or illegal purpose ; or

(5) The condition of the house has in the opinion of the Court deteriorated owing to acts of waste, neglect or default of the tenant or any such person ; or

(6) The tenant has given notice to quit and the landlord has in consequence contracted to sell or let the dwelling house.

The landlord may secure possession where the dwelling house is reasonably required by him as a residence for

(a) himself or for any person *bona fide* residing or to reside with him ;

(b) some person in whole time employment of the landlord ; or

(c) some person in the employment of some tenant from him —the landlord.

8. RATE OF MORTGAGE INTEREST may be increased by an amount not exceeding one per centum per annum. This was subject to a proviso that during a period of one year after the Act became law the increase should not exceed one-half per centum per annum. By sub-section I of Section 3 it is provided that "nothing in this Act contained shall be taken to authorize any increase in the rate of interest on a mortgage except in respect of a period during which, but for this Act, the security could be enforced." By Section 7, it is provided that in the case of any mortgage which comes under the Act (among other things) unless the interest at the rate permitted under the Act is not more than 21 days in arrear, the mortgagee shall not lawfully call in the mortgage nor take any steps for exercising any right of foreclosure, nor sale, nor otherwise enforce his security, nor recover the principal money thereby secured.

9. THE RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1923, modified the "principal Act" of 1920 and prolonged its operation until 24th June, 1925. Thenceforward, for the space of five years, it committed the "sitting tenants" at that date to the care of the county courts, which are to guard them from "exceptional hardships" in connection with ejection and rent increase. Decontrol no longer follows upon the landlord's obtaining possession of a controlled house except as provided by the Act of 1938 (*post*, p. 302). Landlords and tenants can, by agreement, contract out of the Act, provided a valid lease is granted to the tenant for not less than two years.

10. THE PREVENTION OF EVICTION ACT, 1924, provides that an order for possession may be made where the dwelling house is reasonably required by the landlord for occupation as a residence for himself, and the court is satisfied, having regard to all the circumstances of the case, including any alternative accommodation available for the landlord or the tenant, that greater hardship would be caused by refusing to grant an order or judgment for possession than by granting it.

11. THE RENT AND MORTGAGE INTEREST (RESTRICTIONS CONTINUATION) ACT, 1925. Part I provided that the Increase and Mortgage Interest (Restrictions) Act, 1920, should remain in force in England and Wales until December, 1927, and in Scotland until May, 1928.

Part II provided that the Rent and Mortgage Interest (Restrictions) Act, 1923, should remain in force for a further five years.

12. THE RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920, was continued until the 31st December, 1928, by the Expiring Laws Continuance Act, 1927.

13. REPORT OF THE RENT RESTRICTION ACTS COMMITTEE was issued in July, 1931.

(i) The report recommended the decontrol of houses in the Metropolitan police district with rateable value of £45 or over; in the rest of England and Wales £35 or over, and in Scotland £45 or over.

(ii) Continuance of control under the provisions of the 1923 Act was advocated for houses in the Metropolitan police district with rateable values over £20 but under £45, and in the other parts of England and Wales with rateable values of £13 but less than £35.

(iii) Other important recommendations embodied in the report dealt with such diverse subjects as mortgages, alternative accommodation, subletting abuses, enforcement of repairs, and limits of rateable value.

(iv) There was a minority report, signed by one member, in which he favoured not only the continuance of control but also its restoration to houses which have been decontrolled.

14. RENT COURTS have been set up in many towns. Their powers are persuasive only, but they have been very effective in informing tenants of their rights.

15. THE RENT AND MORTGAGE INTEREST RESTRICTIONS (AMENDMENT) ACT, 1933, gave effect to the recommendations of the Departmental Committee as follows—

(1) The Acts as amended were continued until the 24th June, 1938.

(2) The provisions of the Act of 1933 took effect from the 29th September, 1933.

(3) The Act, in effect, divided dwelling houses into three groups.

(4) In order to free the large type of house from rent control, it was provided that houses with a recoverable rent *and* rateable value exceeding, in London and Scotland £45, and elsewhere £35 on the 1st April, 1931, should be decontrolled from the 29th September, 1933, by giving one month's notice to the sitting tenant.

(5) In order to maintain the supply of houses for the working classes at rents within their means, the Act provided that—

(a) Houses not exceeding in London £20; in Scotland £26 5s.; and elsewhere £13 annual value which were controlled on the 1st April, 1931, should continue to be controlled so long as the Acts remain in operation, notwithstanding that they may come into the possession of the owner.

(b) Owners claiming that such houses were already decontrolled should register with their local authority before 18th October, 1933.

(c) The local authority was required to keep and maintain the Register and supply certificates of registration at a fee not exceeding 1s., and to keep the Register open to public inspection during business hours.

(d) County Court may issue certificate to the effect that there was reasonable excuse for failure to register. On receipt of this certificate, Town Clerk must register.

(6) Houses licensed for the sale of intoxicating liquor on the premises are now decontrolled whatever their value.

(7) Local authorities are authorized to publish information of a general character, but anything in the nature of an individual appeal court is unauthorized.

(8) The law with reference to recovery of possession has also been modified—

(a) Overcrowding is not a cause if due to parents or children.

(b) Only relatives residing with deceased tenants are entitled to continue a controlled tenancy.

(c) The County Court may grant possession in any case where satisfactory alternative accommodation is provided.

(9) A new cause for increase of rent has been granted for new or improved fittings provided.

(10) Local authorities are required to issue certificates where required—

(a) That property is not kept in a reasonable state of repair; or,

(b) that there is an Order in operation that the house is unfit for human habitation.

(11) The County Court may order the rectification of a rent book proved to be showing larger arrears than is actually the case.

(12) The local authority is empowered to institute proceedings for offences against these provisions.

16. COMMITTEE OF INQUIRY was set up, in June, 1937, by the Minister of Health and the Secretary of State for Scotland to inquire into the working of the Rent Restriction Acts and to advise what steps should be taken to continue, or terminate, or amend these Acts. The Chairman was Lord Ridley. As an outcome of their Report, the following Act was passed in 1938.

17. THE INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTION) ACT, 1938, amended the previous provisions.

(1) There are from the 29th September, 1938, two groups of houses—

(a) Those over £20 (London and Scotland, £35)—free from control.

(b) Those not exceeding this limit continue to be controlled.

(2) If a controlled house does not exceed £13 (London and Scotland, £20), it does not now become decontrolled when the owner obtains possession.

(3) If between £13 and £20 (London and Scotland, £20 and £35) only if previously decontrolled and registered as such.

(4) Owners of controlled houses on a weekly tenancy must provide the occupier with a rent book, under a penalty of £10.

(5) The Rent Increase Regulations, 1938, have been issued by the Minister of Health to meet the changes introduced under the Act of 1938, and providing forms of—

(a) Notice of Rent Increase.

(b) Notice in Rent Book.

(c) Form of Application to Register.

(6) The landlord is entitled to the benefit of any allowance in respect of the compounding of rates. (This reverses the case of *Nicholson v. J. ....*,

## CHAPTER XXXVII

### SUGGESTIONS TO MEMBERS OF LOCAL AUTHORITIES

1. *When first elected* it is desirable to become acquainted with the Standing Orders governing the business of the local authority. There should be Standing Orders for all local authorities.
2. *Attend the Committee Meetings* regularly. It is in Committee that the principal business is transacted, and close attention to this will often save unnecessary speeches and questions in Council. Try to secure appointment upon Committees whose work you are qualified to advise upon to the best advantage.
3. *Specialize* in one direction, e.g. Education, Child Welfare, etc., besides keeping in touch with the general work of the authority. Find out what your authority has done and avail yourself of the assistance of the officials concerned.
4. *Make yourself familiar* with all new legislation affecting your local authority. Call for a report upon all new Acts of Parliament. It will result in the staff becoming familiar with the Acts as well as yourself.
5. *A Reference Library* for the use of councillors and officials is a sound investment for the ratepayers. This might be included in the local Public Library.
6. *Finance Committees* should be appointed for all authorities. The Chairman and one other member of each Committee should be elected thereon. All financial matters should stand referred to the Finance Committee before coming before the Council.
7. *Estimates* should be prepared for either six months or twelve months. Statements of the income and expenditure against such estimates should be submitted periodically, e.g. quarterly or monthly, with explanations of any variations in amounts.
8. *Separate Bank Accounts* might be kept for each class of undertaking, e.g. Allotments or Adoptive Acts in the case of a Parish Council; Housing or Private Street Works in the case of a District Council. Standing Orders should provide that the bank pass books together with reconciliation statements should be laid on the table at all meetings of the Council or Finance Committee.
9. *Control of Accounts and Finance.* The same official should not be responsible for receiving *and* accounting for money, or for certifying *and* paying accounts. This can be as easily made applicable to small as well as to large authorities.

10. *Stock Accounts* should be kept of all materials. It is often forgotten that stocks of materials constitute a very important part of the assets of local authorities. A storekeeper will in many cases save the amount of his salary by economy in control of stores. He should be responsible to the clerk, treasurer or accountant, and not to the official who uses the material, e.g. the surveyor.

11. *Works Departments* may be developed to great advantage, especially in large and growing districts.

12. *A System of Return Sheets* of work done will constitute a rough but very efficient method of controlling the administration of a Works Department. Costing Accounts should be in operation in all large authorities.

13. *Officials* should be encouraged to make themselves more efficient by studying for and passing the various professional examinations. An addition to the salary for such qualification will prove a great incentive to study. An inefficient head can do far more damage than an inefficient subordinate.

14. *Appointments by open competition*, especially among members of the junior staffs, should be developed, which prevent much "log rolling" and tend to efficiency in administration.

15. *Inspections* by Central Departments are referred to in Chapter IV. It has been suggested that there should be inspectors of local authorities possessing authority to examine the general procedure of the work. This would prevent irregularities.

16. *Cultivate friendly relations* with members of opposite schools of political thought. It is frequently found that there is full agreement in local affairs, and besides adding to the sociability of life, it will be possible to learn much from political opponents.

17. *Report* at frequent and regular intervals to the electors. Familiarize them with the work of your authority. Where possible take them, in parties, over the undertakings. These are the property of the electors, and the more they see of them the more they will appreciate your services.

18. *Members of Education Committees* should try to arrange meetings of representatives from schools. These men will often help to visualize facts which appear vague on paper.

19. *The Institute of Public Administration* is open to members of local authorities, who may join as honorary members, and should encourage the staffs to join as Associates or Members.

For particulars apply to the Secretary, 190 Palace Chambers, Bridge Street, London, S.W.1.

20. *The International Union of Local Authorities* is concerned with the holding of a Congress in various parts of the world, e.g. Paris in July, 1937. For particulars apply to the Secretary, 26 Abingdon Street, Westminster, London, S.W.1.

## CHAPTER XXXVIII

### SOCIAL SERVICE

1. THE IDEAL OF LIFE calls for service rather than for success as the first aim. Service entails sacrifice, and many citizens are willing to give of their best. The following brief summary is intended to direct them.

2. SOCIAL SERVICE represents an attractive form of citizenship. The reader is directed to the preceding chapters for any details which may be required in respect to the subject of interest. Some people are not disposed to seek the suffrages of the electors with a view to becoming members of local authorities. There is, however, plenty of opportunity for such persons to play their part as citizens in other ways.

	Chapter
(1) Member of the representative body under the Overseers Order, 1927 . . . . .	VII
(2) Parish Council.—Chairman may be elected from outside the membership of the Council . . . . .	VII
(3) District Council. Do. do. . . . .	VIII
(4) Justice of the Peace.—Appointed by the Crown	X
(5) Any Committee—other than the Finance Committee—under the Local Government Act, 1933, may be composed of persons who are not members of the local authority up to one-third of the total number.	
(6) Public Health.—Membership of Maternity and Child Welfare Committee (at least two women)	XII
(7) Housing.—Demand for Clearance or Improvement Scheme by four or more local government electors. Report on any house by four or more local government electors. Membership of Housing Committee by co-optation . . . . .	XIII
(8) Town and Country Planning.—Anyone may make representation for a scheme . . . . .	XIV
(9) Small Holdings and Allotments.—Any six parliamentary electors or ratepayers may make representations . . . . .	XV

(10) Special Constables.—Appointed in emergencies . . . . .

(11) Education Committee. Co-option by Council, Managers and Correspondents of Elementary Schools. Juvenile Employment.—Membership of Advisory and After-care Committees . . . . .

(12) Children and Young Persons Acts.—Voluntary Infant Life Protection Visitors . . . . .  
Visitors to institutions for reception of poor children and young persons . . . . .  
Management of Reformatory and Industrial and Truant (now Approved) Schools . . . . .  
Probation officers for juvenile offenders . . . . .

(13) Public Assistance Committee, Minority of one-third members may be co-opted . . . . .

(14) Mental Treatment.—Committee for the Care of the Mentally Defective . . . . .

(15) War Charities Committee . . . . .

(16) Local Pensions Committee . . . . .

(17) Old Age Pensions Committee . . . . .

(18) Personal Service. In particular there are many opportunities in addition to those mentioned above whereby the citizen may render service as member of Guild of Help, Council of Voluntary Aid, Personal Service Committee, etc.

3. THE NATIONAL COUNCIL OF SOCIAL SERVICE (INCORPORATED), formed in July, 1915, has for its object the development and co-ordination of social service. The address is 26 Bedford Square, London, W.C.1. The intention is to organize voluntary social work throughout the country, so as to secure complete co-ordination and with that object to form—

4. LOCAL REPRESENTATIVE COUNCILS coinciding generally with local government areas, to co-ordinate voluntary and official social work, to promote such new efforts as may seem advisable, and to promote the training of social workers as recommended by the Joint University Committee on Social Service.

5. BOARD OF EDUCATION JUVENILE ORGANIZATIONS COMMITTEE has been established to assist work among juveniles by Local Representative Committees. The Secretary, Mr. P. Wilson, Board of Education, Whitehall, London, S.W.1.



## APPENDIX A

### PRINCIPAL LOCAL AUTHORITIES IN ENGLAND AND WALES. CLASSES AND NUMBERS

The following figures are revised to December, 1938—

County Councils	62
Councils of County Boroughs	83
Metropolitan Borough Councils (including City of London)	29
Town Councils (other than County Boroughs)	306
Urban District Councils	575
Rural District Councils	475
Port Health Authorities	24
Joint Hospital Boards and Committees	210
Joint Sewerage Boards and Committees	41
Joint Water Boards and Committees	51
Local Education Authorities	271
Public Assistance Authorities	145
Parish Councils (approximately)	7,000
Parish Meetings without Councils (approximately)	4,000
Assessment Committees	342
Catchment Boards	48
Local Sea Fisheries Committees	11
Vagrancy Joint Committees	21



## APPENDIX B

### THE RATING RELIEF FORMULA

QUESTIONS having arisen as to the precise form of the algebraic formula—of which paragraph 23 of the White Paper, “Proposals for the Reform in Local Government and in the Financial Relations between the Exchequer and the Local Authorities” (Cmd. 3134) is a summary—the Minister of Health gave the following information in the course of a reply to an inquiry by Miss Susan Lawrence.

The formula is as follows—

Let  $p$  = the population of a county in the standard year as estimated by the Registrar-General.

Let  $c = 50$ , or the number of children under five years of age per 1,000 of the population, whichever is the greater.

Let  $a = 10$ , or the rateable value in £ per head of the population according to the valuation list in force on 1st October, 1929, whichever is the less.

Let  $u = 1.5$ , or the percentage of unemployed men calculated as explained in Cmd. 3134, whichever is the greater.

Let  $m$  = the number of persons per mile of public road.

Then (1) if  $m$  is greater than or equal to 100, the weighted population is

$$p \left( 1 + \frac{c - 50}{50} + \frac{10 - a}{10} \right) \left( 1 + \frac{u - 1.5}{10} + \frac{50}{m} \right)$$

(2) if  $m$  is less than 100 the weighted population is

$$p \left( 1 + \frac{c - 50}{50} + \frac{10 - a}{10} \right) \left( 1 + \frac{u - 1.5}{10} + \frac{200 - m}{200} \right)$$

In the cases of London and the county boroughs, the last term in the second bracket is always taken as zero, as there is no weighting for low density of population in those cases. The following example illustrates the working of the formula. The figures are those for the Administrative County of Durham (*vide* page 32 of Cmd. 3134)—

EXAMPLE. *Elements of the Formula**First and Second Fixed Grant Periods*

(a) Number of children under five years of age per 1,000 of the population	113
(b) Estimated rateable value per head of population when derating is in operation	£2.59
(c) Percentage of population represented by number of unemployed insured men (estimated average of three years)	5.2
(d) Estimated population per mile of public roads	444
(e) Estimated population (in 1926)	996,700

## CALCULATION OF WEIGHTED POPULATION

(i) Estimated actual population	996,700
(ii) Increase for children of 126 per cent (113 exceeds 50 by 63, which is 126 per cent of 50)	1,255,842
(iii) Increase for low rateable value of 70.5 per cent (£2.95 is £7.05 below £10, and 7.05 is 70.5 per cent of 10)	702,674
	<hr/>
	2,955,216
The increased population of 2,955,216 is further weighted by—	
(iv) a percentage of 37 for unemployment (5.2 exceeds 1.5 by 3.7, and ten times 3.7 is 37)	1,093,430
(v) a percentage of 11.3 for low density of population (444 exceeds 100); the percentage increase is therefore 50 + 100, i.e. 11.3	333,939
	<hr/>
Total weighted population	4,382,585

A grant of 31.35 pence per head of a total weighted population of 4,382,585 is equivalent to a grant of 137.8 pence per head of an actual population of 996,700.

(NOTE. This formula will now require amendment for the added "weighting" which is to be given in respect of 10 per cent of unemployed insured women and the amendments made under the provisions of the Local Authorities (Financial Provisions) Act, 1937. See page 222.)

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MANSBRIDGE, ALBERT. *An Adventure in Working-class Education.*  
 Longmans (1920). O.P.  
 The story of the Workers' Educational Association by one who has been at the centre of its wonderful development as Founder and its first General Secretary.

OWEN'S *Education Acts Manual.* 23rd Edition, edited by Sir Ross Barker.  
 Knight (1937). 84s. net.  
 The Standard Work on Education Law, containing the codified Education Act, 1921, and amendments.

PARRY, R. ST. JOHN (edited by). *Cambridge Essays on Adult Education.*  
 Cambridge University Press (1920). 12s. 6d. net.  
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*Report of an International Enquiry.*

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EXLEY, C. H. *The Guide to Poor Relief*.

Meek, Thomas & Co. Ltd. (1935). Fourth Edition. 6s. net.

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GLEN, R. A. *Poor Law Act, 1930*.

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*Report of the Inter-departmental Committee on Public Assistance Administration*. (Cmd. 2011.)

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*Report of the Royal Commission on Poor Law, 1834.*

There have been several reprints of this, but probably the best is that issued by P. S. King, price 1s. 8d., also H.M. Stationery Office.

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 Being a statement of the law as it now stands.

LITHIBY, SIR JOHN. *The Law Relating to Lunacy and Mental Deficiency*.  
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MILLS, G. E., and POYSER, A. H. R. W. *Lunacy Practice*.  
 Butterworth (1934). 42s. net.  
 Deals with management of estates in lunacy, appointment of  
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WORMALD, JOHN, and WORMALD, SAMUEL. *A Guide to the Mental  
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# INDEX

ACCIDENTS, motor, 147  
Accounts and Audit—  
    Appeals, 252  
    Audit procedure, 251  
Borough, 55  
Control of, 308  
County, 65  
Disallowance, 252  
District, 49  
    — auditor, 250, 251  
Education, 172  
Forms, 249  
High Court decisions, 252  
Housing, 99  
Inspection, 249, 250  
Internal audit, 252  
Lancashire Mental Hospitals  
    Board, 201  
London County Council, 257  
Making up, 249  
Mental treatment, 202  
Metropolitan Borough Council,  
    260  
Parish Council, 44,  
    — Meeting, 42  
Procedure, 251  
Public Assistance, 198  
Publication of, 249, 250  
Rural district, 49  
Scotland, 280  
Separate accounts, 248  
Stamp duty order, 250  
Statutory provisions, 250  
Surcharge, 252  
Systems, 248  
    Urban district, 49  
Acquisition of Land, 86, 95, 100  
Administrative county, 62  
    — duties, 4  
Admission of the press to meetings, 8  
Adolescent, Report of Committee  
    on, 175  
Adoption of children, 191  
Adoptive Acts, 42, 116-17  
Adult education, 174  
Advertisements, 115, 122  
Aerodromes, 124  
Agricultural Acts, 117  
Agricultural education, 118  
Agriculture, 23, 63, 117, 119  
Agriculture and Fisheries, Minis-  
    try of, 23  
Air raid precautions, 133  
Aldermen—  
    Borough, 54  
    City of London Corporation, 257  
    County, 62  
    London County Council, 253  
    Metropolitan Borough Council,  
        259  
Allotments, 48, 56, 118, 119  
Animals' diseases, 63, 118  
Approved schools, 21, 180, 188, 189  
Art schools, etc., 168  
Assessment areas, 229  
Assistance, Public. See Public  
    Assistance  
Asylums. See Mental Treatment  
Audit. See Accounts and Audit  
Auditor—  
    Borough, 56  
    District, 250  
    Elective, 56  
    Mayor's, 56  
BACK-to-back houses, 85  
Bailies, 272  
Bank accounts, 308  
Banks, 122  
Bathing places, 75  
Baths, 75, 117  
Begging, 182  
Betterment, 142  
Betting and lotteries, 133  
Bibliography, 317  
Bills, Parliamentary, 4  
Birmingham Savings Bank, etc.,  
    122  
Births, notification of, 74  
Births registration, 23  
Birth persons, 73, 78, 287, 294  
Board of Control, 23, 200  
    — of Education, 21, 159

Board of Trade, 20  
 Borough administration, Royal Commissioners on, 58  
 Borough Council—  
     Accounts, 55  
     Advantages of, 51  
     Aldermen, 54  
     Auditors, 55  
     Committees, 54  
     Constitution, 53  
     Councillors, 53  
     Disadvantages of, 52  
     Duties of, 54  
     Elections, 54  
     Establishment of, 51  
     Finance, 55  
     Freeman, 57  
     Loans, 55  
     Mayor, 54  
     Meetings, 54  
     Municipal, 51  
     Officers, 55  
     Powers of, 54  
     Rates, 55  
     Rights of electors, 56  
     Royal Commission and, 58  
         — Commissioners, 57  
         Special types, 56  
 Borough police, 127  
 Borrowing powers, 224-5  
 Borstal institutions, control of, 21, 191  
 Bridges. See Highways, Streets and Bridges  
 Brothels, 181  
 Building Acts, London, 260  
 Burgess, 53  
 Burgh, 268, 271  
 Burial grounds, 77, 117  
 Burnham salaries awards, 177  
 Burning, risk of, 181  
 Bursaries, 161  
 By-laws, 3, 21, 82, 100, 165, 173, 181  
  
 CAMP, school, 171  
 Canal boats, 75, 166  
 Canals, 24  
 Cancer Act, 1939, 78, 223  
 Carnal knowledge: girls, 181  
 Catchment boards, 120  
  
 Cemeteries, 77, 117  
 Census, 23  
 Central departments of State, 20-6  
     — Electricity Board, 124  
     — government and local government, 1  
 Central schools, 161  
     — Valuation Committee, 230  
 Chancery Division, 28  
 Charitable Trusts Act, 287  
 Charity Commissioners, 25, 287  
 Charter of incorporation, 20, 51  
 Child life protection, 75, 179  
     — welfare, maternity and, 75  
 Children and Young Persons—  
     Acts, 179  
     Adoption, 191,  
     Approved schools, 180, 188, 189  
     Authority, 180  
     Begging, 181  
     Borstal, 191  
     Brothels, 181  
     Burning, risk of, 181  
     By-laws, 181  
     Care of, 187  
     Carnal knowledge, 181  
     Child life protection, 179  
     Choice of employment, 183  
     Committees, 180  
     Courts, juvenile, 183-6  
     Cruelty to, 181  
     Dangerous performances, 181  
     Employment, 181, 182  
     Entertainments, part in, 182  
     Finance, 190  
     Intoxicating drink, 187  
     Juvenile courts, 183-9  
     Legitimacy, 191  
     Licensed premises, 187  
     Loans, 191  
     Maintenance, 188  
     Old metal, 187  
     Overcrowding, 187  
     Pawns, 187  
     Probation, 191  
     Prostitution, 181  
     Protection of, 183  
     Reformatory schools, 180  
     Remand homes, 189  
     Seduction, 181  
     Sentence of death, 186

Smoking, 187  
 Street trading, 182  
 Suffocation, 181  
 Summary jurisdiction, 186  
 Supervision, 185  
 Vagrants: Education, 187  
 Verminous children, 187  
 Voluntary homes, 190  
 Children's Safety Committees, 178  
 Choice of employment, 183  
 City of London Corporation—  
     Building Acts, and, 260  
     Committees, 258  
     Court of Aldermen, 257  
     — of Common Council, 257  
     — Hall, 258  
 Liverymen, 258  
 Meetings, 258  
 Powers and duties, 258  
 Civil Defence Act, 133  
 Classification of motor vehicles, 145  
     — roads, 134  
 Cleansing of persons, 71  
 Clearance areas, 85, 88  
 Clubs, registration, 60  
 Coaches, 146  
 Commerce and Industry, Dept. of,  
     21  
 Commercial education, 159  
 Commissioners in Lunacy, 200  
     —, traffic, 148  
 Committee on Ministers' powers,  
 Committees— [25]  
     Allotments, 48  
     Borough, 54  
     Children's Safety, 178  
     County Council, 63  
     District Council, 47  
     Education, 159, 160  
     Finance, 247  
     Health, 70  
     Joint, 64  
     Maternity and Child Welfare, 79  
     Ordinary, 63  
     Parish Council, 43  
     — Meeting, 41  
     Rating, 226, 240  
     Standing, 63  
     Statutory, 63  
 Town and Country Planning,  
     107, 108

Committees, Valuation, 230  
     Visiting, 201, 203  
 Common Council, London, 257  
     — Hall, London, 258  
 Compounding allowances, 228  
 Consolidation of health laws, 67  
 Constables, 127  
 Consultative Councils, Ministry  
     of Health, 22  
 Continuation schools, 160, 168  
 Control, Board of, 23, 200  
 Co-optation, 7  
 Corporation—  
     City of London, 257–9  
     Municipal, 53  
 Corrupt and illegal practices, 37,  
     38  
 Councillors, disqualification, 36  
 Councillors, qualifications, 36  
 Country Planning. See Town and  
     Country Planning  
 County Council—  
     Accounts, 65  
     Aldermen, 62  
     Chairman, 62  
     Committees, 63  
     Constitution, 62  
     Councillors, 62  
     Finance Committee, 65  
     Land registration, 65  
     Loans, 65  
     Meetings, 63  
     Officers, 64  
     Powers and duties, 64  
     Rating, 65  
 County Councils Association, con-  
     tribution to, 65  
 County courts, 28  
     — police, 127  
     — roads, 135  
     — Valuation Committee, 230  
 Court of Aldermen, 257  
     — Common Council, 257  
     — Hall, 258  
     — Quarter Sessions, 30  
 Crematoria, 117  
 Cruelty to animals, 21  
     — to children and young per-  
         sons, 21, 181

DANGEROUS driving, 146

Day continuation schools, 159  
 Deaths registration, 23  
 Demolition order, 83  
 Department of Commerce and Industry, 21  
 — of Public Services Administration, 21  
 Departments of State, Central, 20-26  
 Dependents' Pension (War), 289-90  
 Development Commission, 20  
 Disallowance, 252  
 Diseases, notification of, 72  
 — of Animals, 63, 118  
 Disqualifications of councillor, 36  
 District Auditor, 250  
 — Council—  
     Accounts, 50  
     Committees, 47  
     Constitution, 46  
     Loans, 50  
     Meetings, 47  
     Officers, 49  
     Powers and duties, 47  
     Rates, 49  
 Docks, 24  
 Drainage, 119-20  
 Drainage of premises, 78  
 Drains, 71  
 Drivers, licensing of, 146, 154  
 Driving tests, 152

**EDUCATION—**

    Accounts and audit, 172  
     Adult, 174  
     Age and attendance, 164, 168, 173, 174  
     Art schools, etc., 168  
     Authorities, 159  
     Blind and deaf children, 166  
     Board of, 21, 159  
     Burnham salaries awards, 177  
     Bursaries, 161  
     By-laws, 165  
     Canal boats, children in, 166  
     Central schools, 161  
     Closing of schools, 164,  
     Commercial, 159  
     Committees, 159, 160  
     Conduct of school, 162  
     Consultative Committee, 159, 178

Education (*contd.*)—  
     Continuation schools, 160, 168  
     Conveyances, 171  
     Day continuation schools, 159  
     Defectives, 166  
     Definitions, 155, 159  
     Elementary, 156, 159  
     — schools, 161  
     Emmott Committee, 176  
     Employment, 171  
     Endowments, 164  
     Epileptics, 166  
     Exemption, 165, 168  
     Expenses, 172  
     Fees, 164,  
     Films, 177  
     Finance, 172  
     Gifts, 173  
     Grouping of schools, 163  
     Guides, 171  
     Hadow Committee, 175  
     Higher, 159, 167  
     History, 14, 155  
     Industry and, 175  
     Inquiries, 173  
     Inspection, 162, 172  
     Land, 171  
     Legislation, 157, 158, 174  
     Loans, 172  
     Maintenance grants, 161, 168  
     Managers, 163  
     Marine schools, 161,  
     Meals, 161, 170  
     Medical inspection, 161, 169, 170  
     Minutes, 160  
     Non-provided schools, 162  
     Notices, 173  
     Nursery schools, 161  
     Officers, 173  
     Parent's duty, 164  
     Part-time continuation schools, 168  
     Physical training, 171, 178  
     Private schools, supervision of,  
     Provided schools, 162 [177  
     Rates, 172  
     Recreation, 161, 171  
     Registration Council, 174  
     Religious instruction, 162, 166,  
     172  
     Reports, 173

Education (*contd.*)—  
 Research, 168  
 Returns, 173  
 Safety Committees, 178  
 Schemes, 160  
 Scholarships, 161  
 School attendance, 157, 164, 165,  
 169  
 — camps, 171  
 Science schools, etc., 168  
 Secondary, 159, 178  
 Superannuation, 176  
 Teachers, 168, 173, 176  
 Technical, 159  
 Transfer of schools, 164  
 Travelling expenses, 171  
 Unemployed, 159, 169  
 University, 159  
 Vacation schools, 161  
 Verminous children, 171  
 Wireless, 177

Ejection, 303

Elections and Registration—  
 Appeals, 34  
 Corrupt and illegal practices, 37  
 Disqualifications, 36  
 Expenses of registration, 35  
 Legal incapacity, 33  
 Local government elections, 35  
 — electors, 31  
 — franchise, 31  
 Machinery for registration, 34  
 Mode of elections, 37  
 Penalties, 38  
 Petitions, 38  
 Qualifications of councillor, 36  
 — of juror, 39  
 Qualifying period, 33  
 Register of electors, 32  
 Registration officer, 32  
 Right to vote, 34  
 Elective auditors, 56  
 Electors, rights of, 8, 199  
 Electricity supply, 24, 124  
 Elementary education, 156, 159  
 — schools, 161  
 Emmott Committee, 176  
 Employment, 24, 206  
 —, juvenile, 171  
 Endowments, educational, 164  
 Epileptics, education, 166

Establishment of a borough, 51  
 Estimates, 308  
 Evictions, 305  
 Examination authorities, 9  
 Exemption from rating, 242

FACTORIES Acts, 21, 77  
 Ferries, 24, 124

Finance. See Accounts and Audit;  
 Loans; Rates

Financial control—  
 Finance committees, 247  
 Rate estimates, 247  
 Supplementary estimates, 247

Financial duties, local authority's,  
 5  
 Fines, non-payment of, 61  
 Fire police, 129  
 Fisheries Act, 23, 117  
 Foot passenger crossings, 153  
 Footpaths, 138

Franchise. See Elections and  
 Registration

Freemen, 57

GARDEN cities, land for, 114  
 Gas authorities, London, 265  
 — powers, 21, 122  
 Geddes Committee, 213  
 General Order for Accounts, 250  
 — Register Office, 23  
 Gifts, education, 173  
 Gilmour Committee, 268  
 Girls. See Children and Young  
 Persons

Grants—  
 Abolished, 213  
 Adjustment, 216  
 Advantages, 211  
 Agriculture, 212, 214  
 Apportionment among counties  
 and county boroughs, 217  
 Approved schools, 214  
 Assigned revenues, 212  
 Calculation, 216  
 Cancer Act, 1939, 223  
 Committees, 213  
 Customs and Excise duties, 212  
 Definition, 211  
 Disadvantages, 211  
 Distribution, 217, 219

Grants (*contd.*)—  
 Education, 214, 221–2  
 Forestry Commission, 214  
 Formula, 218, 222  
 Government, 214  
 Health services, 214  
 Home Office, 214  
 Housing, 220–1  
 Labour, Ministry of, 214  
 Licences, 213  
 Local government, 214  
 — taxation, 212, 213  
 London, application to, 219  
 Midwives, 214  
 New Exchequer, 215  
 Overseas Settlement, 214  
 Physical Training and Recreation Act, 223  
 Police, 214  
 Public health, 214  
 Reorganization, 213  
 Revision, 219  
 Roads, 214  
 Small holdings, 214  
 Transport, 214  
 Tuberculosis, 216  
 Unemployment, 214  
 Greater London, 266  
 Guardians' Committees, 195  
 Guides (education), 171  
 Gymnasia, 116

HADOW Committee, report of, 175  
 Harbours, 24  
 Health Committees, 70  
 — Laws, consolidation of, 67  
 —, Ministry of, 21–3  
 —, public. See Public Health  
 — resorts, 122  
 Higher education, 159, 167  
 Highway code, 148  
 Highways. Streets and Bridges—  
 Bridges, 138  
 Classification of roads, 134  
 County roads, 135  
 Diversion, 138  
 Finance, 138  
 Footpaths, 138  
 Improvement lines, 138  
 Land charges, 139  
 Legislation, 134

Highways (*contd.*)—  
 New roads, 135, 136  
 Occupation road, 136  
 Private roads, 136, 137  
 Public health, 76  
 Repair and maintenance, 136  
 Road Board, 138  
 Royal Commission, Final Report, 139  
 State control, 139  
 Street playgrounds, 139  
 Streets, 136  
 Trunk roads, 134  
 Unclassified roads, 136  
 Widening, 138

History—  
 Education, 15, 155  
 Frankpledge System, 11  
 Hundred, 12  
 Industrial Revolution, 13  
 Justice of the Peace, 12  
 London, 14  
 Metropolitan Asylums Board, 14  
 — Board of Works, 14  
 — Water Board, 14  
 Nineteenth Century Local Government, 13  
 Norman Conquest, 11  
 Parish, 12  
 Police System, 12  
 Poor Laws, 13  
 Present system of Local Government, 15  
 Reform of Municipal Corporations, 13  
 Review up to 1888, 15  
 Saxon settlements, 11  
 Sheriff, 12  
 Holdings, small, 118–19  
 Home Office, 21  
 — Secretary's duties, 21  
 Honorary freemen, 57  
 Hop-pickers, by-laws as to, 76  
 Hospitals, 74  
 Housing—  
 Accounts, 99  
 Act of 1936, 80  
 Associations, 97  
 Back-to-back houses, 85  
 By-laws, 82, 100  
 Central Advisory Committee, 99

Housing (*contd.*)—

- Clearance Areas 85, 88
- Closing of premises, 83
- Court, powers of, 102
- Default of local authorities, 103
- Demolition of insanitary houses, 83, 84
- Financial assistance, 97, 98
- Improvement areas, 88
- Insanitary premises, 83
- Inspection of houses, 82
- Land, acquisition of, 86, 95, 100
- Legislation, 80
- Loans, 97, 99
- Local authorities, 81
  - authority's houses, 96
- London, provisions as to, 85, 105
- Maintenance, 81
- Minister of Health, powers of, 103, 104
- Notices, 102
- Obstructive buildings, demolition of, 90
- Official representations, 101
- Orders, 102
- Overcrowding, 91–2
- Possession, recovery of, 102
- Problem of, 80
- Re-conditioning by owners, 89
- Re-development areas, 87–9
- Re-housing, 100
- Repair, 81, 83, 84
- Rural districts, 96
  - workers, 105
- Sanitary condition of houses, 81
- Small Dwellings Acquisition Acts, 105–6
- Working classes, provision for, 94

Hundred, 46

IMPROVEMENT area, 88
 

- lines, 138

Incorporation, charters of, 20, 51

Increases of rent, 303

Industry and education, 175

Infants. See Children and Young Persons

- Infectious diseases, 72
- Inspection—
  - Dwelling-houses, 82
  - Education, 162, 172

Inspection, Records, 199, 249

Institute of Public Administration, 309

Institutions, establishment of, 4

Insurance, motor, 147, 152

Interments, 77

International Union of Local Authorities, 309

Intoxicating drink, 60, 187

Ireland. See Northern Ireland

Isolation hospitals, 74

JOINT action, 2
 

- committees, 7, 71

Judicature—

- Appeals, 28
- Chancery Division, 28
- Committee on Ministers' Powers, 27
- County courts, 28
- Court of Quarter Sessions, 30
- King's Bench Division, 28
- Petty Sessions, 29
- Probate, Divorce, and Admiralty Division, 28
- Supreme Court of Judicature, 27

Judicial authorities, London, 265
 

- duties, 5

Jurors, 39, 60

Justice of the Peace—

- Appointment, 59
- Duties, 60
- Magistrates' clerk, 61
- Office, 59
- Qualifications, 59
- Stipendiary magistrate, 61

Juvenile Courts, 183–6
 

- Organizations Committee, 311

Juveniles. See Children and Young Persons

KEMPE Committee, 213

King's Bench Division, 28
 

- highway, 134
- peace, 21, 59

LABORATORIES, 5

Labour exchanges, 24
 

- , Ministry of, 24

Lancashire Mental Hospitals Board, 201

Land drainage, 119  
 — registration, 65  
 Landlord, 93  
 Lead paint protection, 78  
 Lee Conservancy Boards, 263, 264  
 Legal incapacity, 33  
 Legislative duties, 3  
 Legitimacy Act, 1926, 191  
 Libraries, 117  
 Licences, local taxation, 24  
 Licensed premises, 60, 187  
 Light railways, 24, 123  
 Lighting of roads, 117  
 Liverymen, 258  
 Loans—  
     Borough, 55  
     County, 65  
     District, 49  
     Education, 172  
     Housing, 97, 99  
     Lancashire Mental Hospitals Board, 201  
     Mental treatment, 202  
     Parish Council, 44  
     Parish meeting, 42  
     Public Assistance, 198  
     Town planning, 115  
 Local authorities: definition, 1, 2  
     — functions, classification of, 4  
     — Government Act, 1929, 17  
     — — —, 1933, 19, 261  
     — — — and central government, 1  
     — — — Board, 21  
     — — —, definition, 1  
     — — — Franchise. See Elections and Registration  
     — — — functions, 2  
     — — — service, 9  
     — — — taxation grants, 212  
 Lodging houses, common, 75  
 London and Home Counties Joint Electricity Authority, 264  
 London and Home Counties Traffic Advisory Committee, 264  
 London, recent legislation affecting, 260. See also City of London Corporation, London County Council, and Metropolitan Borough Councils.

London County Council—  
     Accounts, 257  
     Aldermen, 253  
     Building Acts and, 260  
     Committees, 254  
     Election, 253  
     Finance, 256  
     Loans, 257  
     Local Government Act, 1933, 261  
     London squares, 257  
     Meetings, 253  
     Officers, 256  
     Powers and duties, 254, 255  
     Public Assistance, 255  
     — health, 254, 262  
     Rates, 256  
     Transfer of powers, 255  
 London Government Act, 1939, 261  
 London Passenger Transport Board, 264  
 Lord Mayor, 54, 258  
 Lotteries and Betting, 133  
 Lottery, municipal, 123  
 Lunacy. See Mental Treatment  
  
 MACHINERY for registration, 34  
 Magistrate, stipendiary, 61  
 Magistrates' clerk, 61  
 Managers, school, 163  
 Marine schools, 161  
 Markets, 122  
 Marriage registration, 23  
 Master in Lunacy, 200  
 Maternity and child welfare, 75  
 — legislation, 79  
 Mayor, 53, 54  
 Mayor's auditor, 56  
 Meals: Education authority, 161, 170  
 Medical assistance, motor accidents, 147  
 — inspection, children and young persons, 161, 169, 170  
 — services (war pensioners), 290  
 Mental defectives, 202-4  
 — deficiency, education, 167  
 — Treatment—  
     Accounts, 202  
     Annual Returns, 202  
     Asylums Committee, 201  
     Audit, 202

Mental Treatment (*contd.*)—  
 Board of control, 200  
 Central authorities, 200  
 Classes of persons, 200  
 Duties of Local Authority, 201,  
 Expenses, 202 [203  
 Finance, 202  
 Lancashire Mental Hospitals  
 Board, 201  
 Loans, 202  
 Local authority, 201, 203  
 Officers, 202  
 Places of detention, 201  
 Sterilization of mentally defec-  
 tives, 204  
 Visiting committee, 201, 203  
 Metal, old, purchase of, 187  
 Metropolitan Asylums Board, 255  
 — Borough Councils—  
 Accounts, 260  
 Aldermen, 259  
 Committees, 259, 260  
 Council, 259  
 Mayor, 259  
 Meetings, 259  
 Officers, 260  
 Powers and duties, 259  
 Rates, 260  
 Standing Joint Committee, 260  
 — Water Board, 262  
 Midwives, 79  
 Military pensions, 288–90  
 — voter, 33  
 Mines Regulation Acts, 21  
 Minister of religion, 36  
 Ministries. See under specific  
 subjects  
 Minutes, 47  
 Moneylenders, licensing of, 61  
 Mortgage interest (restrictions),  
 Municipal borough, 51 [302  
 — corporation, 51  
 — relief works, 209  
 — savings banks, 122  
 — Trading, 121  
 Museums, 116  
 NATIONAL Council of Social  
 Service, 311  
 National development, 4  
 Nationalization of services, 6  
 Naturalization, 21  
 Naval and military pensions, 288–90  
 — voter, 33  
 Needs test, 207  
 New roads, 135, 136  
 Non-provided schools, 162  
 Northern Ireland—  
 Boards of Guardians, 282  
 Borough Councils, 282  
 Councils, powers, and duties, 281  
 County Borough Councils, 282  
 — Councils, 281  
 Derating, 286  
 Drainage, 283  
 Education, 283  
 Elections, 284  
 Grants, 283  
 Health, 285  
 Housing, 284  
 Intoxicating Liquor Acts, 284  
 Jury laws, 284  
 Minister of Home Affairs, 281  
 Motor traffic, 284  
 Old age pensions, 285  
 Reform proposals, 286  
 Rent restrictions, 286  
 Roads, 285  
 Royal Ulster Constabulary, 285  
 Rural District Councils, 282  
 Summary jurisdiction, 285  
 Trade Boards, 286  
 Unemployment, 286  
 Urban District Councils, 282  
 Nuisances, 72  
 Nursery schools, 161  
 Nurses, registration Act, 79  
 Nursing homes, 74  
 OCCUPATION road, 136  
 Offenders, juvenile, 185  
 Offensive trades, 72  
 Office of Woods and Forests, 20  
 — of Works and Public Build-  
 ings, 20  
 Officers—  
 Borough, 55  
 County, 64  
 District, 49  
 Education, 173  
 London County Council, 256  
 Mental treatment, 202

Officers, (*contd.*)—  
 Metropolitan borough, 260  
 Parish Council, 44  
 —— Meeting, 42  
 Police, 128  
 Public Assistance, 198  
 Recruitment, 9  
 Sanitary, 49

Old Age Pensions—  
 Age, proof of, 293  
 Amount of, 293  
 Appeals, 293  
 Blind persons, 294  
 Central Authority, 291  
 Contributory, 295, 299  
 Disqualifications from, 292  
 Finance, 294  
 Legislation, 291  
 Local Committee, 291  
 Means, calculation of, 294  
 Non-contributory, 291  
 Officers, 291  
 Procedure for, 292  
 Qualifications for, 291

Old metal, 187  
 Open spaces, 116  
 Orders in Council, 20  
 Orphans' pensions, 298  
 Overcrowding, 91-2, 187  
 Overseers of the poor, 226

PARENTS' war pension, 290

Parish—  
 Constables, 131  
 Council:  
 Accounts, 44  
 Chairman, 43  
 Committees, 43  
 Constitution, 43  
 Finance, 44  
 Loans, 44  
 Meetings, 43  
 Officers, 44  
 Powers, 43  
 Rates, 44  
 Meeting:  
 Accounts, 42  
 Chairman, 41  
 Committees, 41  
 Officers, 42  
 Powers and duties, 42

Parish Rates, 42  
 Promotion to District Council, 44  
 Royal Commission, 45  
 Rural Council, 41  
 Urban, 45

Parliamentary Bills, 4  
 —— burgh, 272

Parochial Adoptive Acts, 117  
 —— Committee, 43

Pawns, 187

Pensions, Ministry of, 24  
 ——, Old age, 291-2, 299  
 ——, Orphans', 298  
 ——, Police, 129  
 ——, War, 288-90  
 ——, Widows', 297

Petroleum-filling stations, 114

Petty Sessions, 29

Pharmacy and poisons, 78

Physical training and recreations, 114

Piers, 24 [178]

Pillion riding, 146

Police—  
 Air raid precautions, 133  
 Amalgamations, Committee on, 133  
 Appeals, 132 [133]  
 Areas, 127  
 Authorities, 127  
 Betting and lotteries, 133  
 Borough, 128  
 Burghs, 271  
 College, 132  
 Councils, 132  
 County, 128  
 Duties, 128  
 Educational schemes, 132  
 Expenses, 131  
 Federation, 131  
 Fire, 129  
 London, 265  
 Lotteries and betting, 133  
 Officers, 128  
 Parish constables, 131  
 Pensions, 130  
 Riot damages, 129  
 Special constables, 131  
 Superannuation, 129  
 Women patrols, 132

Polling hours, extension of, 37

Poor Law. See Public Assistance

Port health authorities, 70  
 — of London Authority, 263

Post office, 24

Powers of Ministers, 25, 27

Press, admission of, 8

Printers, local authorities as, 125

Prisons, control of, 21

Private roads, 136  
 — schools, supervision of, 177  
 — streets, 77, 116

Privy Council, 20

Probate, Divorce, and Admiralty Division, 28

Probation of Offenders Act, 191

Proportional representation, 8

Prostitution, juvenile, 181

Provided schools, 162

Provost, 272

Public Assistance—  
 Accounts, 198  
 Administration, 196  
 Authority, 196  
 Committees, 194  
 Electors, rights of, 199  
 Expenses, 198  
 Guardians' Committees, 195  
 Indoor relief, 197  
 Loans, 198  
 Local Government Act, 1929, 194  
 Medical relief, 198  
 Officers, 198  
 Outdoor relief, 198  
 Poor Law Act, 1930, 196  
 —, reform, 192  
 Registration Acts, 199  
 Relief, 196, 197  
 Settlement, 198

Public Health—  
 Act of 1875, 67  
 Act of 1925, 78  
 Act of 1936, 69  
 Acts, classifications of, 68  
 Appeals, 76  
 Arbitration, 76  
 Bathing places, 75  
 Baths, 75  
 Births, notification of, 74  
 Blind Persons Act, 77  
 Borrowing, 76  
 Canal boats, 75

Public Health (*contd.*)—  
 Child life protection, 74  
 Committees, 70  
 Compulsory purchase of land, 76  
 Consolidation Committee, 67  
 Councils, combination of, 76  
 Diseases, notification of, 72  
 Entry and obstructions, 76  
 Expenses, recovery of, 76  
 Factories and workshops, 77  
 Functions, relinquishment of, 77  
 Hop-pickers, 76  
 Hospitals, 74  
 Interments Act, 77  
 Joint boards, 71  
 — committees, 71  
 Lead paint, 78  
 Lodging houses, common, 75  
 London, 262  
 Maternity and child welfare, 74  
 — legislation, 79  
 Midwives, 79  
 Miscellaneous provisions, 73, 75  
 Moveable dwellings, 75  
 Notices, 76  
 Nuisances, 71  
 Nurses registration, 79  
 Nursing homes, 74  
 Offences, prosecution of, 76  
 Offensive trades, 71  
 Officers, protection of, 76  
 Port Health Authorities, 70  
 Private Street Works, 77  
 Property, transfer of, 76  
 Rag flock, 78  
 Sanitary legislation, early, 67  
 Sanitation and buildings, 71  
 Sewage disposal, 71  
 Sewers, 71  
 Streets, breaking open of, 76  
 Tuberculosis, treatment of, 73  
 Washhouses, 75  
 Water supply, 72  
 Watercourses, etc., 76

Public libraries, 117  
 — safety, 4

Public Service vehicles, 148, 149

Public Services Administration, Department of, 21  
 — Undertakings—  
 Advantages, 121

<p>Public Undertakings (<i>contd.</i>)—</p> <ul style="list-style-type: none"> <li>Aerodromes, 124</li> <li>Baths and washhouses, 122</li> <li>Classes of undertakings, 121, 122</li> <li>Disadvantages, 122</li> <li>Electric power, 124</li> <li>Ferries, 124</li> <li>Gas supply, 122</li> <li>Health resorts, 122</li> <li>Light railways, 123</li> <li>Lottery, 123</li> <li>Markets, 122</li> <li>Profits, 125</li> <li>Printing, 125</li> <li>Publicity, 122</li> <li>Royal Commission Reports, 123, 126</li> <li>Savings bank, 122</li> <li>Sinking fund payments, 125</li> <li>Tramways, 123</li> <li>Water, 122</li> </ul> <p>Public Utility Societies, 20</p> <ul style="list-style-type: none"> <li>— Works Facilities Act, 1930,</li> <li>— — — Loan Board, 20 [209]</li> </ul> <p>QUALIFYING period, franchise, 33</p> <p>Quasi-commercial undertakings, 5</p> <p>RAG flock, 78</p> <p>Railways, 24</p> <p>Rates—</p> <ul style="list-style-type: none"> <li>Borough, 55</li> <li>County, 65</li> <li>District, 49</li> <li>Education, 172</li> <li>London Council Council, 256</li> <li>Metropolitan Borough, 260</li> <li>Parish Council, 44</li> <li>— Meeting, 42</li> </ul> <p>Rating and Valuation—</p> <ul style="list-style-type: none"> <li>Acts, 226, 232, 234</li> <li>Agricultural land, 234</li> <li>Amendment of list, 236</li> <li>Appeals, 238, 239</li> <li>Apportionment Act, 232</li> <li>Arbitration, 239</li> <li>Assessment areas, 229</li> <li>— committees, 229</li> <li>Audit, 246</li> <li>Authorities, 226</li> <li>Central Valuation Committee, 230</li> </ul>	<p>Rating and Valuation (<i>contd.</i>)—</p> <ul style="list-style-type: none"> <li>Committees, 226, 240</li> <li>Compounding, 228</li> <li>County Valuation Committee, 230</li> <li>Definitions, 233</li> <li>Discount, 229</li> <li>Draft list, 235</li> <li>Exemptions, 242</li> <li>Expenses, 246</li> <li>General rate, 227</li> <li>Inspection of documents, 240</li> <li>Levy of General Rate, 227</li> <li>Levying the rate, 227, 241</li> <li>London, 241</li> <li>Machinery and plant, 239</li> <li>Notices, 235, 240</li> <li>Objections, 235, 237</li> <li>Overseers, 226</li> <li>Precepts, 226</li> <li>Publication of rate, 227</li> <li>Railways, 246</li> <li>Rate made retrospective, 227</li> <li>Recovery from owners, 228</li> <li>Referees, panel of, 240</li> <li>Remission of rates, 227</li> <li>Returns, 228, 235, 238</li> <li>Statements, 242</li> <li>Valuation list, 230-1, 235</li> <li>Valuer, appointment of, 230</li> <li>Receiver: Bankrupt boroughs, 6</li> <li>Reckless driving, 146</li> <li>Records, inspection of, 8, 199, 249</li> <li>Recreation grounds, 117</li> <li>Recruitment of Local Government Officers, 9</li> <li>Re-development areas, 87-8, 89</li> <li>Reference library, 308</li> <li>Reform in Local Government, 16-19</li> <li>Reformatory (Approved) schools, 21, 180, 188, 189</li> <li>Register of electors, 32</li> <li>Registration—</li> <ul style="list-style-type: none"> <li>Births, 23</li> <li>Deaths, 23</li> </ul> <li>Elections. See Elections and Registration</li> <li>Land, 65</li> <li>Marriages, 23</li> <li>Nurses, 79</li> </ul>
--	---

Registration Officer, 32  
 Teachers, 174  
 Relief, Poor. See Public Assistance  
 Remand homes, 189  
 Rent and Mortgage Interest (Restrictions) Acts, 302-7  
 Rent, standard, 300  
 Representation of the People Acts, 31-40  
 Representation, proportional, 8  
 Reprieve of prisoners, 21  
 Research: Education, 168  
 Ribbon Development, restriction of—  
     Betterment, 142  
     Building Development, 141  
     Central authority, 140  
     Compensation, 142  
     Consents of highway authority, 141  
     Contraventions, 142  
     Entrance, means of, 143  
     Expenses, 143  
     Fencing of roads, 141  
     Functions, exercise of, 143  
     Land acquisition, 142  
     Local authority, 140  
     London, application to, 140  
     Parking places, 143  
     Plans, deposit of, 141  
     Roads, standard widths of, 140  
     Works in progress, 141  
 Riot damages, 129  
 Road Board, 138  
 — illumination, 153  
 — Traffic. See Traffic Regulation  
 Roads. See Highways, Town Planning  
 Royal burghs, 271  
 Royal Commission, Final Report:  
     Borough, 57  
     County Councils, 66  
     District, 50  
     Highways, 139  
     Parish Councils, 45  
     Public Undertakings, 123, 126  
     Recruitment of officers, 9  
     Unemployment insurance, 206  
 Rural civil parish, 41  
 — district, 1, 46  
 Rural Industries Intelligence Bureau, 23  
 SANATORIUM treatment, 73  
 Sanitary Adoptive Acts, 116  
 Sanitation and buildings, 71  
 Savings banks, 122  
 Scholarships, 161  
 Schools. See Education  
 Science schools, etc., 168  
 Scientific and industrial research, 20  
 Scotland—  
     Accounts and Audit, 280  
     Agriculture, 267  
     Bailies, 272  
     Board of Control, 268  
     Borrowing powers, 276  
     Burghs, 268, 271  
     Central Departments, 267  
     Committees, 272  
     Councillors, 272  
     County Council, 268  
     District Councils, 272  
     Education, 273  
     Finance, 275  
     Fishery Board, 267  
     Grants-in-aid, 275  
     Health, 267  
     Local Authorities, 267, 268  
     Lord Advocate, 267  
     Meetings, 272  
     Police, 272  
     Provost, 272  
     Public Assistance, 274  
     Rates, 277  
     Secretary of State for, 267  
     Town council, 272  
     Valuation and rating, 276-9  
 Secondary Education, 159, 178  
 Seduction of girls, 181  
 Sewers, 71  
 Sex Disqualification (Removal) Act, 60  
 Shops Acts, 21  
 Sinking Fund payments, suspension of, 125  
 Small Dwellings Acquisition Acts, 105-6  
 — holdings, 118, 119  
 Smoking, juvenile, 187  
 Social service, 310-11

Soldiers, care of sick, 22  
 — pension, etc., 289  
 — voters, 33  
 Special constables, 60, 131  
 Speed limits, 146, 151  
 Spens Report, 178  
 Standard rent, 302  
 Standing committees, 63  
 Statement of Rates Act, 242  
 Statistics, vital, 23  
 Statutory committees, 7, 63  
 Sterilization of mentally defective, 204  
 Stipendiary magistrate, 61  
 Stockkeeping, 309  
 Street Playgrounds Act, 139  
 Street trading, 182  
 Streets. See Highways, Streets and Bridges).  
 Suffocation of infants, 181  
 Suggestions to members of local authorities, 308-9  
 Sunday entertainments, 61  
 Superannuation—  
 Local Government officers, 9  
 Police, 129  
 Teachers, 176  
 Supreme Court of Judicature, 27  
 Surcharge, 36, 252  
 Swimming baths, 75

TEACHERS, 168, 173, 176  
 Technical education, 159  
 Tenancy, 303  
 Thames Conservancy Board, 263  
 Third party risks, road traffic, 147, 152  
 Tithes, 242  
 Tolls, 24  
 Town and Country Planning—  
 Advertisements, 115  
 Betterment, 113  
 Committees, 107, 108  
 Compensation, 112  
 Default, 114  
 Development Orders, 112  
 Expenses, 115  
 Garden cities, 114  
 Interim development of land, 110

Town and Country Planning, (contd.)—  
 Land purchase, 113  
 Legal proceeding, 114  
 Legislation, 107  
 Loans, 115  
 Local authority, 107  
 London, 266  
 —, squares, 115  
 Model Clauses, 109  
 Petroleum filling stations, 114  
 Responsible authority, 108  
 Schemes, 108  
 Supplementary orders, 109  
 Trade, Board of, 20  
 Trading, municipal, 121  
 Traffic Advisory Committee, 264  
 Traffic Regulation—  
 Abandoned cars, 153  
 Accidents, 147  
 Acts, 145, 147, 150  
 Advances from Road Fund, 148, 154  
 Areas, 148  
 Classification of motor vehicles, 145  
 Coaches, 146  
 Commissioners, 148  
 Compensation of officers, 153  
 Construction regulations, 152  
 Dangerous driving, 146  
 Drivers, licensing of, 146, 154  
 Driving tests, 152  
 Foot passenger crossings, 153  
 Highway code, 148  
 Insurance, 147, 152  
 Local Authorities and public service vehicles, 149  
 Medical assistance, 147  
 Pillion riding, 146  
 Public service vehicles, 148, 149, 153  
 Reckless driving, 146  
 Road Fund advances, 148, 154  
 — Haulage Wages Act, 154  
 — illumination, 153  
 Speed, rate of, 146, 151  
 Third party risks, 147, 152  
 Transport Advisory Council, 150  
 Training (ex-service), 290  
 Tramways, 24, 123

Transport Advisory Council, 150  
 — and traffic, 24  
 — Ministry of, 24  
 Travelling expenses, 18, 65  
 Treasury, 20  
 Trunk roads, 134  
 Tuberculosis, 73  
 Tyne River: Police, 127

UNCLASSIFIED roads, 136  
 Unemployed Workmen Act, 206  
 Unemployment—  
     Assistance Board, 207  
     Causes, 205  
     Employment Exchanges, 206  
     Equation of grants, 210  
     Grants, 210  
     Insurance, 206  
     Insured persons, 206  
     Municipal relief works, 209  
     National Economy Act, effect on, 207  
     Needs Test, 207  
     Poor Laws and, 205  
     Prime Minister Conference, 210  
     Public Works Facilities Act, 1930, 209  
     Remedial measures, 208  
     Royal Commission, Reports, 206  
     Unemployed Workmen Act, 1905, 206  
 University education, 159  
 Urban district, 46  
 Urban parish, 41, 44

VACATION schools, 161  
 Valuation. See Rating and Valuation  
 Verminous children, 171, 187  
 Vestry meeting, 45  
 Veterinary Service, 24, 119  
 Visiting committees, 61, 201  
 Vital statistics, 23  
 Voluntary homes, 190  
 Vote. See Elections and Registration

WAR charities, 287  
 — pensions, 288-90

Washhouses, 75, 117  
 Watch Committee, 128  
 Water supply, 72  
 — undertakings, 262  
 Watercourses, 76  
 Waterways, 24  
 Weights and measures, inspection, 61  
 Welfare work, 310  
 Welsh insurance commissioners, 22  
 Widows' pensions, 297  
 — war pensions, 289  
 Widows', Orphans' and Old Age Contributory Pensions—  
     Administration of, 295  
     Benefits, 297  
     Contributions, 297, 301  
     Disqualifications from, 300  
     Excepted persons, 296  
     Exempt persons, 296  
     Finance, 300  
     Insured persons, 295  
     Legislation, 295  
     Objects of, 295  
     Offenders, 300  
     Old age contributory pensions, 299  
     Orphans' pensions, 298  
     Special provisions, 300  
     Voluntary contributors, 296, 301  
     Widows' pensions, 297  
 Wireless education, 177  
 — installations, 78  
 Wives' war pensions, 289-90  
 Women—  
     in Local Government, 8, 36  
     Maternity and Child Welfare Committees, 79  
     Patrols, 132  
     War Pensions, 289-90  
 Working classes, housing of, 94  
 Works and Public Buildings, Office of, 20

YOUNG persons. See Children and Young Persons